



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
202-331-0992 (Fax)

Initiate National Dispute

March 5, 2009

Via Facsimile and First Class Mail

National Executive Board

William Burrus
President

Cliff "C. L." Guffey
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Eastern Region Coordinator

Elizabeth "Liz" Powell
Northeast Region Coordinator

William "Bill" Sullivan
Southern Region Coordinator

Ormar M. Gonzalez
Western Region Coordinator

Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: APWU No. HQTG20092

Dear Mr. Tulino:

On March 13, 1995, case #90C4G C94016793 was appealed to national arbitration from a Step 4 appeal under the pre-1998 Article 15 procedures. In accordance with the June 3, 2004 Memorandum of Understanding "Re: Review of Pre-1998 Grievances Referred or Appealed to the National Level," all grievances appealed under the pre-1998 Article 15 process that had not been settled, withdrawn or remanded pending the outcome of a national dispute were considered remanded as of Sept. 30, 2004 to the parties at Step 3 for further processing or to be scheduled for arbitration, as appropriate.

Please be advised, the APWU has made an interpretive review of the issue(s) in this case, and in accordance with the provisions of Article 15 of the collective bargaining agreement, and of the June 3, 2004 Memorandum of Understanding, the American Postal Workers Union is initiating a dispute at Step 4 of the grievance procedure concerning the following interpretive issue:

This dispute involves Contract Postal Units (CPUs) and facilities that must be staffed by bargaining unit employees. The Union contends that CPUs may not exist when the Postal Service has the use of the property by consignment or other special agreement, for example, on military bases, in National Parks, and in government buildings. More broadly stated, when a facility providing postal services is indistinguishable from a postal customer services facility, it must be staffed in accordance with the National Agreement.

Under the National Agreement, a facility which provides postal services for customers is one covered by Article 1.3 of the National Agreement -- that is, it provides customer services within the meaning of Article 1.4 -- and therefore must be staffed by employees as defined in Article 7. Duty

assignments which exist in these facilities must be posted for bid for full-time and part-time regulars in accordance with Article 37. Where there is not enough work for a full-time assignment or to combine into a bid assignment, Article 7 requires the Postal Service to assign the work to part-time employees with a flexible schedule -- PTFs. Only when there is not enough work to meet the contractual minimum for a PTF (that is, two hours per pay period), may the Postal Service employ casuals to perform clerk craft duties in accordance with Article 7 of the National Agreement. Unless the Postal Service can demonstrate that a given facility is a legitimate CPU, the Postal Service must staff the facility in accordance with Articles 1, 7 and craft articles of the National Agreement.

It is the APWU position that Handbook AS-707 does not apply in these cases because the CPUs are not owned as well as operated by the contractor. The definition of a CPU is found in Section 1.5.1: "A contract postal unit is a contractor-owned and operated facility, under contract to the Postal Service and under the jurisdiction of an administrative post office that provides selected postal services to the public" (emphasis added). The Postal Service itself recognizes that CPUs may not exist on property owned or leased by the Postal Service. The same rationale applies to the situations described in this letter.

In accordance with the provisions of Article 15, Section 2, of the National Agreement, "[T]he parties shall meet at the National level promptly, but in no event later than thirty (30) days after initiating such dispute in an effort to define the precise issues involved, develop all necessary facts and reach agreement." If the parties are unable to resolve this issue, it will be placed back on the arbitration docket based on the original appeal date of March 13, 1995, in accordance with the June 3, 2004 Memorandum.

Please contact Cliff Guffey, case officer, to discuss this dispute at a mutually scheduled time.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG20092
Dispute Date: 3/5/2009

Case Officer: Cliff Guffey
Contract Article(s): 1.3 and 1.4 Art. 7

cc Resident Officers
File

GB/bw

APWU

American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Appeal to Arbitration, National Dispute

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
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March 4, 2009

National Executive Board

William Burrus
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Cliff Guffey
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Secretary-Treasurer

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Director, Industrial Relations

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Omar M. Gonzalez
Coordinator, Western Region

Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: USPS Dispute No. Q06C4QC09001499, APWU No. HQTG200817

Dear Mr. Tulino:

Please be advised that pursuant to Article 15, Sections 2 and 4, of the Collective Bargaining Agreement, the APWU is appealing the above referenced dispute to arbitration.

Sincerely,


Greg Bell, Director
Industrial Relations

USPS #: Q06C4QC09001499
APWU #: HQTG200817

Case Officer: Cliff Guffey
Step 4 Appeal Date: 10/14/2008
Contract Article(s):

cc: Resident Officers
Industrial Relations

GB/bw



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Article 15 - 15 Day Statement of Issues and Facts

William Burrus
President
(202) 842-4246

February 25, 2009

Ms. Mary Hercules
Labor Relations Specialist – Contract Administration (APWU)
U.S. Postal Service,
475 L'Enfant Plaza
Washington, D.C. 20260

National Executive Board

William Burrus
President

Cliff Guffey
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Omar M. Gonzalez
Coordinator, Western Region

**Re: APWU No. HQTG200817, USPS No. Q06C4QC09001499, Cert.
No. 7099322000020242545**

Dear Ms. Hercules:

The meeting on the above referenced dispute was held between the parties on 10/14/2008 in accordance with Article 15 of the Collective Bargaining Agreement. Article 15, Section 2 (Step 4) provides that if the parties fail to reach an agreement, then within fifteen days of their meeting each party shall provide the other with a statement in writing of its understanding of the issues involved, and the facts giving rise to the dispute.

The following is the APWU's statement of issues and facts concerning this dispute. This letter is the APWU's position on the dispute filed by the Postal Service in Case Q06C-4Q-C 09001499. In it, the Postal Service contends that the pre-arbitration settlement in Case Q006-4Q-C 103264 (May 17, 2007) "put to rest" any argument that the Postal Service violates the National Agreement when the owner of a contract postal unit (CPU) to lease the facility. You cite Section 1.5.1 of Handbook AS 707-F. The definition of a CPU is found in Section 1.5.1: "A contract postal unit is a contractor-owned and operated facility, under contract to the Postal Service and under the jurisdiction of an administrative post office that provides selected postal services to the public" (emphasis added). The Postal Service itself recognizes that CPUs may not exist on property owned or leased by the Postal Service.

It has been the consistent position of the APWU that CPUs, like other postal facilities, must be staffed by bargaining unit employees when the Postal Service has the use of the property by consignment or other special agreement, for example, on military bases, in National Parks, and in government buildings, or the Postal Service pays the CPU contractor's rent. More broadly stated, when a

Letter to Mary Hercules
February 25, 2009
Page Two

facility providing postal services is indistinguishable from a postal customer services facility, it must be staffed in accordance with the National Agreement.

Under the National Agreement, a facility which provides postal services for customers is one covered by Article 1.3 of the National Agreement — that is, it provides customer services within the meaning of Article 1.4 — and therefore must be staffed by employees as defined in Article 7. Duty assignments which exist in these facilities must be posted for bid for full-time and part-time regulars in accordance with Article 37. Where there is not enough work for a full-time assignment or to combine into a bid assignment, Article 7 requires the Postal Service to assign the work to part-time employees with a flexible schedule — PTFs. Only when there is not enough work to meet the contractual minimum for a PTF (that is, two hours per pay period), may the Postal Service employ casuals to perform clerk craft duties in accordance with Article 7 of the National Agreement. Unless the Postal Service can demonstrate that a given facility is a legitimate CPU, the Postal Service must staff the facility in accordance with Articles 1, 7 and craft articles of the National Agreement. Handbook AS-707 does not apply in these cases because the CPUs are not owned as well as operated by the contractor.

The Postal Service has greatly overstated the effect of the pre-arbitration agreement you cite. The issue the Union “put to rest” was whether all CPUs must be owned rather than leased by the contractor. The APWU did not and has not changed its position on the applicability of the National Agreement to facilities which call themselves CPUs but are functionally equivalent to Postal Service facilities.

Please contact me if you wish to discuss this matter.

Sincerely,


Cliff Guffey
Case Officer

APWU #: HQTG200817
USPS #: Q06C4QC09001499

Dispute Date: 10/14/2008
Contract Articles: ;

cc: Industrial Relations

CG /lbb
opeiu#2, afl-cio



OCT 17 2008

October 14, 2008

Mr. William Burrus
President
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Sent by Certified Mail
Tracking #: 7004 1160 0006 3898 6182

Re: USPS Initiated Interpretive Dispute
Q06C-4Q-C 09001499

Dear Bill:

In accordance with the provisions of Article 15, the Postal Service is initiating an interpretive dispute at the fourth step of the grievance/arbitration procedures regarding Contract Postal Units.

The specific issue presented is as follows:

Is it a violation of Section 1.5.1 of Handbook AS 707-F, for the owner of a Contract Postal Unit (CPU) to lease the facility?

This issue has been grieved in several areas, most recently the issue surfaced in local grievance number E06C-4E-C 08080339. Briefly, the local APWU in Cheyenne, WY filed this grievance alleging a contract violation when the owner of a CPU in the local ACE Hardware store did not own the facility or land, but instead rented the space.

It is the Postal Service's position that this issue was put to rest with the pre-arbitration settlement in national dispute Q00C-4Q-C06103264 dated May 17, 2007. Indeed, the parties agreed to comply with the requirements of the existing Handbook AS 707-F, Section 1.5.1, definition of a CPU as a contractor-owned and operated facility and that a CPU would not be located on property leased or owned by the Postal Service. However, the parties similarly understood and agreed that it would not be a violation of Handbook AS -707F for the CPU owner to lease the facility.

In order to ascertain whether there is a disagreement at the national level over the appropriateness of a CPU holder to lease rather than own the facility, the Postal Service is initiating an interpretive dispute.

Therefore, in accordance with Article 15 of the national agreement under Step 4, the parties shall meet, no later than thirty (30) days after initiating a dispute, in an effort to define the precise issues involved, develop all necessary facts and reach an agreement. Please have your designee contact me at (202) 268-4356, to schedule a mutually convenient time to have a Step 4 meeting.

Sincerely,

Mary Hércules
Labor Relations Specialist
Contract Administration (APWU)



February 24, 2009

Mr. Cliff Guffey
Executive Vice President
American Postal Workers Union,
AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Certified Mail Tracking #
7099 3400 0009 0506 1816

Re: Q06C-4Q-C 09001499
Washington, DC 20260-4100

Dear Cliff:

On several occasions, the last date being February 12, we met to discuss the above-captioned case at the fourth step of our grievance/arbitration procedures. In accordance with Articles 15.2.Step4.a and 15.4.D, this constitutes the Postal Service's understanding of the issues involved and our response to those issues. The interpretative issue presented is:

Is it a violation of Section 1.5.1 of Handbook AS 707-F, for the owner of a Contract Postal Unit (CPU) to lease the facility?

Background:

On May 17, 2007, the parties entered into a pre-arbitration settlement agreement for national dispute Q00C-4Q-C 06103264. The issue framed in that dispute was "whether there is a violation of the national agreement, specifically Articles 1, 7, and 19, when contracts are let for a Contract Postal Unit (CPU) to contractors who do not own the property/facility." /sic/ The relevant paragraphs 1 and 2 of this settlement agreement states, as follows:

1. The Postal Service will comply with the requirements of the existing Handbook AS-707F, Section 1.5.1, which defines a CPU as "a contractor-owned and operated facility, under contract to the Postal Service and under the jurisdiction of an administrative post office."
2. A contract postal unit may not be located on property which is owned or leased by the Postal Service.

Following this settlement agreement, new local grievances surfaced concerning CPUs where the contract holder rented the space instead of owning the facility. One example of a local grievance filed on point is number E06C-4E-C 08080339. Briefly, the local American Postal Workers Union (APWU) in Cheyenne, Wyoming filed this grievance alleging a contract violation when the CPU owner rented space in an ACE Hardware store.

By letter dated October 14, 2008, the Postal Service initiated the instant dispute.

Position of the Parties:

It is the APWU's position that the CPU owner must own the facility where the CPU is being operated, as defined in Section 1.5.1 of Handbook AS 707F.

The Postal Service disagrees. The Postal Service believes that this dispute must be rejected, as non-arbitrable as there is no national interpretive issue to be decided on this matter. The parties resolved this issue in the Pre-Arbitration Settlement Agreement outlined above. To allow this dispute to proceed would give the APWU a "second bite of the grievance apple" to re-negotiate or change the terms of the settlement agreement.

Notwithstanding the arbitrability issue, it is also the Postal Service's position that this matter has been resolved. Indeed, the parties agreed to comply with the requirements of the existing Handbook AS 707F, Section 1.5.1, which defines a CPU. The parties also agreed that a CPU would not be located on property leased or owned by the Postal Service. During discussions that led to the settlement agreement, the parties similarly understood and agreed that it would not be a violation of Handbook AS 707F for the CPU owner to lease the facility or space where the CPU is operated. The Postal Service's position was supported by Arbitrator Toedt in her decision for grievance number G90C-4G-C 94016792, et al. Specifically, Arbitrator Toedt held, in part at page 11:

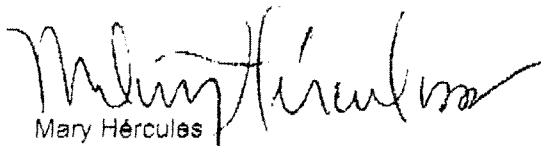
Item 2, however, clarifies the Parties' intent. It states that a CPU "may not be located on property which is owned or leased by the Postal Service." This is clear and unambiguous language. In item 2, the Parties expressed their intent that property is to be regarded as the physical property and that a CPU cannot be on property which is owned or leased by the Postal Service. No mention is made of contractors owning or not owning the property. The Parties did not refer to a "contractor-owned or operated" facility in item 2. Taken together, these two items resolve any doubt about the Parties intent. A contractor-owned and operated facility is a contractor-owned and operated business, which may or may not be on property owned by the contractor (but it may not be on property owned or leased by the Postal Service).

Furthermore, CPUs have a long history in the Postal Service. They were established to provide postal services in locations not large enough to warrant a post office or in locations which could provide additional and useful service to the public in a cost efficient manner. See Sections 2.1.2 and 2.1.3 of the AS 707F. It has never been a contractual requirement for the contractor to own the facility in which the CPU is located. Rather, the contractor owns and operates the business. CPUs have been established in locations such as airports, strip shopping centers, colleges and universities, pharmacies, grocery stores, military bases, and as in the local grievance cited above, in hardware stores. A key point is that none of those CPU designated facilities are owned or leased by the Postal Service, contrary to the union's assertion that if the contractor does not own the facility, then it is postal property.

For the forgoing reasons, it is the Postal Service's position that it is not a violation of Section 1.5.1 of Handbook AS 707F for the owner of a CPU to lease, instead of owning the space/facility.

Time limits for exchanging Step 4 position statements were extended by mutual consent.

Sincerely,



Mary Hercules
Labor Relations Specialist
Contract Administration (APWU)



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Acknowledge National Dispute

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
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October 28, 2008

National Executive Board

William Burrus
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Executive Vice President

Ferry R. Supleton
Secretary-Treasurer

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Director, Industrial Relations

James Jim McCarthy
Director, Clerk Division

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Quinn M. Gonzalez
Coordinator, Western Region

Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: USPS No. Q06C4QC09001499, APWU No. HQTG200817

Dear Mr. Tulino:

This is to acknowledge receipt of the dispute filed by the Postal Service in accordance with the provisions of Article 15, Section 2 and 4, of the Collective Bargaining Agreement. The APWU case number for this dispute is referenced above.

Please contact Cliff Guffey, case officer, to discuss this dispute at a mutually scheduled time.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG200817
USPS#: Q06C4QC09001499

Dispute Received Date: 10/14/2008
Case Officer: Cliff Guffey
Contract Article(s):

cc: Resident Officers
File



OCT 17 2008

October 14, 2008

Mr. William Burrus
President
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Sent by Certified Mail
Tracking #: 7004 1160 0006 3898 6182

Re: USPS Initiated Interpretive Dispute
Q06C-4Q-C 09001499

Dear Bill:

In accordance with the provisions of Article 15, the Postal Service is initiating an interpretive dispute at the fourth step of the grievance/arbitration procedures regarding Contract Postal Units.

The specific issue presented is as follows:

Is it a violation of Section 1.5.1 of Handbook AS 707-F, for the owner of a Contract Postal Unit (CPU) to lease the facility?

This issue has been grieved in several areas, most recently the issue surfaced in local grievance number E06C-4E-C 08080339. Briefly, the local APWU in Cheyenne, WY filed this grievance alleging a contract violation when the owner of a CPU in the local ACE Hardware store did not own the facility or land, but instead rented the space.

It is the Postal Service's position that this issue was put to rest with the pre-arbitration settlement in national dispute Q00C-4Q-C06103264 dated May 17, 2007. Indeed, the parties agreed to comply with the requirements of the existing Handbook AS 707-F, Section 1.5.1, definition of a CPU as a contractor-owned and operated facility and that a CPU would not be located on property leased or owned by the Postal Service. However, the parties similarly understood and agreed that it would not be a violation of Handbook AS -707F for the CPU owner to lease the facility.

In order to ascertain whether there is a disagreement at the national level over the appropriateness of a CPU holder to lease rather than own the facility, the Postal Service is initiating an interpretive dispute.

Therefore, in accordance with Article 15 of the national agreement under Step 4, the parties shall meet, no later than thirty (30) days after initiating a dispute, in an effort to define the precise issues involved, develop all necessary facts and reach an agreement. Please have your designee contact me at (202) 268-4356, to schedule a mutually convenient time to have a Step 4 meeting.

Sincerely,

Mary Hércules
Labor Relations Specialist
Contract Administration (APWU)