



American Postal Workers Union, AFL-CIO

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Article 19 Appeal to Arbitration

October 3, 2008

SENT VIA FACSIMILE AND FIRST CLASS MAIL

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Coordinator, Eastern Region

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Coordinator, Northeast Region

William E. "Bill" Sullivan
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

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

Re: APWU #A19G20085; Revisions to the Employee Labor Relations Manual (ELM) Sections 512.412, 513.332 and 515.51

Dear Mr. Tulino:

In accordance with the provisions of Article 19 of the Collective Bargaining Agreement, the APWU appeals to arbitration the above referenced matter.

Article 19 provides that within fifteen days after an issue has been submitted to arbitration, each party shall provide the other with a statement in writing of its understanding of the precise issues involved, and the facts giving rise to such issues.

Please direct your statement of issues and facts to me.

Sincerely,


Greg Bell, Director
Industrial Relations

GB/LB

Appeal Date: 10/3/2008

Case Officer:
Contract Article(s): 19; ELM 510

cc: Resident Officers
Industrial Relations



American Postal Workers Union, AFL-CIO

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Article 19 - 15 Day Statement

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October 18, 2008

VIA FACSIMILE AND FIRST CLASS MAIL

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William E. "Bill" Sullivan
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Omar M. Gonzalez
Coordinator, Western Region

Mr. John Cavallo
Labor Relations Specialist
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: APWU No. A19G20085, Revisions to ELM Sections 512.412,
513.332 and 515.51

Dear Mr. Cavallo:

The above-referenced case was appealed to arbitration on October 3, 2008 in accordance with Article 19 of the Collective Bargaining Agreement. Article 19 provides that within fifteen days after an issue has been submitted to arbitration, each party shall provide the other with a statement in writing of its understanding of the precise issues involved, and the facts giving rise to such issues. The following represents the APWU's understanding of the issues to be decided and the facts giving rise to the interpretive dispute.

Background

By letter dated July 7, 2008, the Postal Service informed the APWU of the following:

As a matter of general interest, the Postal Service is revising Employee and Labor Relations Manual (ELM) Sections 512.412, 513.332 and 515.51.

The revisions to ELM 512.412 and 513.332 support completion of PS Form 3971 through the Interactive Voice response system and the enterprise resource management System, and expeditious mailing of a Family Medical Leave Act (FMLA) packet from the fulfillment center in Topeka, Kansas, to affected employees.

Revisions of ELM 515.51 supports forwarding documentation related to a request for FMLA protection to the FMLA Coordinator without undue delay. The FMLA packet from the fulfillment center will include a postage-paid return envelope the employee is to use to send necessary documents to the FMLA Coordinator.

The letter also enclosed a printed version of the proposed changes, and a narrative explanation from the manager requesting these changes.¹

By letter dated August 12, 2008, the APWU informed the Postal Service that (1) the narrative explanation did not provide any documentation concerning the proposed changes addressing its purpose and effect, and (2) requested that the Union be provided with documentation related to the proposed changes addressing its purpose and effect in preparation for the parties' August 27, 2008 scheduled meeting.

By letter dated August 13, 2008, the Postal Service provided the following response:

The Program Manager, Resource Management advises that there is no additional documentation that would be responsive to your August 12 request. However, a copy of the FMLA packet provided by the fulfillment center is enclosed for your review in the event you find it helpful.

Postal Service's Position

The Postal Service contends that changes to Section 515.51 relates to employees providing documentation in support of a leave request protected by FMLA. In addition, the Postal Service contends that these changes will align ELM language with current procedures of providing supporting documentation directly to a FMLA Coordinator.

The Postal Service also contends that it made changes to Section 512.412 and Section 513.332 of the ELM related to the mailing of a PS Form 3971 to an employee's address of record when leave is requested which may be covered by FMLA. In addition, the Postal Service contends that these changes are required to reflect the establishment of the Interactive Voice Response (IVR) system² and the Fulfillment Center, and that this eliminates the need for the employee or supervisor to manually prepare the PS Form 3971.

However, the Postal Service also takes the position that (1) they are not changing any leave regulations, and therefore are not prohibited from making the changes in

¹ The narrative was addressed to the Manager of Labor Relations Policies and Programs. In the narrative, the Program Manager, Resource Management, who requested these changes, requested "advice on Article 19 requirements."

² There is a pending dispute between the parties in regard to Interactive Voice Response (IVR) system.

Subchapter 510 of the ELM, and (2) the changes are not covered by Article 19 because they do not directly related to wages, hours, or working conditions.

APWU's Position

The APWU's position is, but not limited to, that the Postal Service is prohibited from making the above-referenced changes because these changes affect wages, hours and working conditions of bargaining unit employees. Specifically, Article 10, Section 2.A provides:

The leave regulations in Subchapter 510 of the Employee and Labor Relations Manual, insofar as such regulations establish wages, hours and working conditions of employees covered by this Agreement, shall remain in effect for the life of this Agreement.

In addition, Article 5 of the National Agreement prohibits the Postal Service from taking any unilateral actions affecting wages, hours or working conditions.

Moreover, in accordance with the notification requirements of Article 19, the Postal Service is required to furnish to the APWU the following information regarding notices of proposed changes in handbooks, manuals and published regulations of the Postal Service that directly relate to wages, hours, and working conditions, as they apply to employees covered by the National Agreement, before such changes can be issued:

"The Employer shall furnish the Union with the following information about each proposed change: a narrative explanation of the purpose and the impact on employees, and any documentation concerning the proposed change from the manager who requested the change, addressing its purpose and effect."

Without prejudice to the APWU's position that the Postal Service is prohibited from making the above-referenced changes because these changes affect wages, hours and working conditions of bargaining unit employees, there is no justification to support the Postal Service's assertions that the revisions in questions do not directly relate to wages, hours or working conditions. Even if the Postal Service was not prohibited from making such changes in accordance with Article 10, Section 2, the proposed changes would be subject to the provisions of Article 19 of the National Agreement.

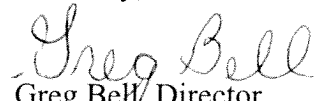
It is the APWU's position that, consistent with current postal regulations, past practices, settlement, agreements, and the collective bargaining agreement, employees are permitted to complete their PS-Form 3971 (Leave Request) and submit any required documentation upon returning to work to the Employer (supervisor) at their work section, at the postal facility where employed.

The APWU's position also is, but not limited to, that the above-referenced changes are in conflict with and a violation of past practice, existing postal regulations,

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October 18, 2008
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settlements, agreements and applicable provisions (including Article 19) of the collective bargaining agreement.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: A19G20085
USPS #:

Appeal Date: 10/3/2008
Contract Articles: 19

cc: Industrial Relations

GB/LB