



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Appeal to Arbitration, National Dispute

Greg Bell, Director
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August 8, 2008

VIA FACSIMILE AND FIRST CLASS MAIL

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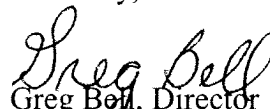
Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: USPS Dispute No. Q06C4QC08101201, APWU No.
HQTG20083, Article 7, Section 1.B.3, Casual Restrictions

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

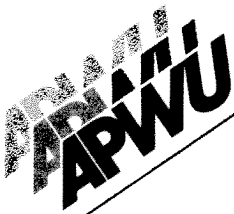
USPS #: Q06C4QC08101201
APWU #: HQTG20083

Case Officer: Greg Bell
Step 4 Appeal Date: 2/11/2008
Contract Article(s): 7, Supplemental Work
Force;

cc: Resident Officers
Industrial Relations

File

GB/LB



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Article 15 -15 Day Statement of Issues and Facts

August 8, 2008

Greg Bell, Director
Industrial Relations
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Via Facsimile and First Class Mail

Ms. Mary Hercules
Labor Relations Specialist
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, D.C. 20260

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Re: USPS No. Q06C4QC08101201, APWU No. HQTG20083,
Article 7, Section 1.B.3, Casual Restrictions

Dear Ms. Hercules:

On June 26, 2008, we met to discuss the above-referenced dispute at Step 4 of the grievance procedure. The parties mutually agreed to submit their written statements no later than August 8, 2008. The following represent the APWU understanding of the issues to be decided, and the facts giving rise to the interpretive dispute.

This dispute involves issues concerning (1) whether the provisions of Article 7, Section 1.B.3 of the National Agreement that prohibits casual employees from performing assignments requiring training and testing includes PMRs (with dual appointments) when utilized as casuals, and (2) is limited to 200 man-year installations

It is the Postal Service's position that Postmaster Reliefs (PMRs), when utilized as casuals, are not subject to limitations on employment of casuals set forth in Article 7, Section 1.B.3, and that the provisions of Article 7, Section 1.B.3 are limited to 200 man-year installations.

It is the APWU's position that pursuant to Article 7, Section 1.B.3, casual employees (no exception) are prohibited from performing assignments requiring training and testing, and such restrictions apply to all casual employees including PMRs (with dual appointments) when utilized as casuals, regardless of the installation size. Article 7, Section 1.B.3 of the National Agreement provides the following:

"Casual employees are prohibited from performing assignments

requiring training and testing (reference Article 37.3. F. 5 and Article 37.3. F. 7 positions).

Similar provisions also apply to the Maintenance and Motor Vehicle Craft."

Contrary to the assertions made by the Postal Service, when PMRs are utilized as casuals they are subject the limitations set forth in Article 7, Section 1.B, and such limitations apply to all casuals. Moreover, the restrictions negotiated in Article 7, Section 1.B.3 are not limited to 200 man-year installations.

Background

During the 2006 national negotiations, the parties reached agreement on several major changes concerning the supplemental work force, and conversion of part-time flexible clerk craft employees. The parties agreed that:

- Clerk craft casuals employment will not be considered "in lieu of full or part-time employees" in installations of 200 man years or more;
- Casual employees may be hired for a term not to exceed 360 calendar days; and
- The number of casuals that may be hired nationwide within the APWU bargaining unit will be increased from 5.9 percent to 6 percent, except for accounting periods 3 and 4.

However, the APWU was successful in achieving the following restrictions on the employment and assignment of casual employees when hired to work in the APWU bargaining unit, and the conversion of part-time flexible employees:

- The conversion of all part-time flexible clerk craft employees to full-time regular and the elimination of the part-time flexible clerk category in 200 man-year installations;
- The number of casuals that may be employed within an installation in any reporting period shall not exceed 11 percent of the total number of clerk craft employees within that installation, except for accounting periods 3 and 4;
- The limit on the number of casual employees the Postal Service may hire within a district shall not exceed 6 percent (decreased from 15 percent) of the total number of career employees within a district covered by the National Agreement, except for accounting periods 3 and 4 (December);
- Casuals may not normally work between the hours of 0500 and 1200 in mail processing operations;

Ms. Mary Hercules
Re: USPS No.: Q06C4QC08101201
August 8, 2008
Page 3

- Casual employees are limited to assignments that do not require training or testing;
- In 200 man-year installations, career employees in mail processing operations, transportation and vehicle maintenance facility operations will have consecutive scheduled days off, unless otherwise agreed to by the parties at the local level;
- Full-time employees on the Overtime Desired List shall be given priority scheduling for overtime work prior to casual employees doing overtime work; and
- The total number of part-time regular employees shall not exceed 2.5 percent of the total number of career employees covered by the National Agreement.

It is the APWU's position that the Postal Service is attempting to achieve in national-level arbitration what it was unable to, and failed to, achieve in national-level contract negotiations. The Employer's action represents a pattern. Moreover, Article 7, Section 1.B.3 represents the final contract language that the parties were able to reach agreement on, and it represents what the parties bargained for, nothing more, and nothing less.

Article 7, Section 1.B.3 is clear and unambiguous; casual employees are prohibited from performing assignments requiring training and testing, such restrictions apply to all casuals, including PMRs (with dual appointments) when utilized as casuals, regardless of the size of the installation.

It is requested that the parties expedite this dispute to be heard in arbitration. Please contact me if you want to discuss this matter.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG20083
USPS #: Q06C4QC08101201

Dispute Date: 2/11/2008
Contract Articles: 7, Supplemental Work
Force;

cc Industrial Relations



August 8, 2008

Mr. Greg Bell
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Hand Delivered

**Re: Q06C-4Q-C 08101201 / HQTG20083
Washington, DC 20260-4011**

Dear Greg:

On June 26, we met to discuss the above-captioned dispute which is pending at the fourth step of our grievance/arbitration procedures. Since the parties have been unable to resolve this pending dispute, in accordance with Article 15.2 Step 4, this constitutes the Postal Service's understanding of the issues involved and the facts giving rise to the interpretive dispute.

The interpretive issue presented is:

Whether the casual usage restriction outlined at paragraph 13 of the MOU RE: Supplemental Work Force; Conversion of Clerk Craft PTF in the 2006 USPS/APWU National Agreement applies in less than 200 man year¹ installations.

Background:

As a result of the 2006 national negotiations between the USPS and the APWU, the parties agreed to certain new principles related to the supplemental work force. These principles are contained in a Memorandum of Understanding (MOU) RE: Supplemental Work Force; Conversion of Clerk Craft PTF² ("the MOU"). In pertinent part, the parties agreed at paragraph 13 of the MOU, as follows:

"13. Casual employees in 200 man year installations will be limited to assignments not requiring training and testing [reference Article 37.3.F.5 positions and Article 37.3.F.7], pages 184 and 185 of Agreement." /emphasis added/

The parties also agreed to meet and develop the appropriate contract language and implementation guidelines and instructions.

Subsequently, the parties developed Questions and Answers (Q&A) dated March 2, 2007, on the Supplemental Work Force MOU. In pertinent part, Q&A number 39 states:

"Question: In reference to paragraph 13 of the MOU, what are the limitations on the type of work casuials may perform?"

¹ A "200 man year" installation list is provided to the union at the national level and is based on complement during the 26 pay periods immediately preceding the effective date of the National Agreement. An installation's classification does not change during the life of the Agreement regardless of whether the complement increases or decreases. See Joint Contract Administration Manual (JCIM) June 2007.

² The MOU RE: Supplemental Work Force: Conversion of Clerk Craft PTF's can be found on pages 290-292 of the 2006 National Agreement.

Response: Paragraph 13 in the MOU prohibits casuals from performing the core duties of positions listed in Article 37.3.F.5 and F.7, e.g., accountable duties such as working the window, the accountable cage, the registry section; duties that require postal training with a deferment period; duties that require scheme study with a deferment period; duties that require a skill that is subject to testing, such as typing. Casuals may perform non-core duties that are related to such positions.³

Ultimately, the agreed upon contract language regarding this provision was included in the 2006 Agreement at Article 7, Section 1.B.3 which states:

Casual employees are prohibited from performing assignments requiring training and testing (reference Article 37.3.F.5 and Article 37.3.F.7 positions). Similar provisions also apply to the Maintenance and Motor Vehicle Craft."

In its letter dated August 9, 2007, the APWU asserted, among other things that the provisions of Article 7.1.B.3 of the 2006 National Agreement applied to all post offices. The APWU also invited the Postal Service to respond if it disagreed with this assertion.

By letter dated January 4, 2008, the Postal Service expressed its disagreement with the APWU's assertion and provided the reasoning for its conclusion.

By letter dated February 11, 2008, the APWU initiated the instant dispute.

Position of the Parties:

It is the APWU's position that the Article 7.1.B.3 restrictions apply to all casuals, irrespective of the size of the installation where employed. The APWU relies on the provision of Article 7.1.B.3 and observes that there are no qualifiers surrounding the term "casuals." Thus, according to the APWU, this provision applies to all casuals, without exceptions, including dual appointment casuals.

The Postal Service disagrees. In the Postal Service's view, the APWU errs by reading the provisions of Article 7.1.B.3 in a vacuum. As outlined above, the disputed final language is the result of the implementing instructions found in the original MOU. Specifically, the parties agreed to "meet and develop the appropriate contract language and implementation guidelines and instructions." The parties did not agree to renegotiate, reform or modify the explicit 200-man year requirement in paragraph 13 of the MOU.

Moreover, the MOU is expressly included as part of Article 7.1.B, by its reference at the end of the section, "See Memo, page 290." Additionally, the Q&As, including the ones regarding application of Article 7.1.B, were expressly incorporated by its reference into the updated Joint Contract Interpretation Manual (JCIM) executed on June 29, 2007. Postmaster Relief/Leave Replacement (PMR) is a noncareer hourly rate employee who performs as a relief or leave replacement during the absence of a postmaster in an EAS-16 or below post office. (See ELM 419.31) In the Postal Service's view, if the PMR, under a dual appointment, is working as a casual employee in a less than 200 man-year installation, the provisions of Article 7.1.B.3 would not apply.

³ Note that the APWU initiated a separate dispute on whether the casual work restrictions found at Article 7.1.B.3 apply to Article 37.3.F.3 and 37.3.F.4 assignments. See dispute number Q00C-4Q-C 07097262.

Therefore, for the foregoing reasons, the casual usage restrictions outlined at paragraph 13 of the MOU and incorporated in Article 7.1.B.3 does not apply in less than 200 man year installations.

Step 4 time limits were waived by mutual agreement with the understanding that the 15-day position statements would be submitted no later than August 8.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mary Hércules", with a long, sweeping horizontal line extending to the right.

Mary Hércules
Labor Relations Specialist
Contract Administration (APWU)