



## American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

April 2, 2003

**TO:** Local Presidents  
National Business Agents  
National Advocates  
Regional Coordinators  
Resident Officers

**FO:** Greg Bell, Director   
Industrial Relations

**RE:** RMD Settlement

Enclosed is a copy of a pre-arbitration settlement agreement in case number Q98C-4Q-C 01005505 concerning the Postal Service's Resource Management Database (RMD) and its web-based enterprise Resource Management System (eRMS).

This settlement resolves many of the issues related to management's implementation of these systems, including Privacy Act issues, multiple call-in requirements, medical documentation to protect the interests of the Postal Service, and fixed numbers of absences for triggering discipline.

Several issues in this dispute remain outstanding, specifically: management requesting the nature of the illness when an employee calls in, FMLA second/third opinion procedures, and medical documentation requirements to substitute paid leave for unpaid intermittent FMLA leave. We have agreed to continue discussions related to these unresolved issues. However, if no agreement is reached within fifteen (15) days from the date of this settlement, the parties have agreed that these issues will be given priority scheduling for national arbitration.

It is requested that locals forward to my office any information (policies, past practice, class action grievances, settlements or agreement, etc.) that you may have regarding management requesting the nature of illness when an employee calls in due to an illness or injury. Such information may be helpful in our attempt to resolve this issue.

Please note that on Feb. 21, 2003, in national-level arbitration, we heard the case involving whether the Postal Service violates the FMLA by requiring a detailed medical report from bargaining unit employees seeking to return to work from FMLA leave after certain illnesses or ailments, or after absence of more than 21 days. This case is pending a decision upon the submission of briefs.

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

Re: Q98C-4Q-C 01005505  
APWU #HQTG200015  
Class Action  
Washington, DC 20260-4100

Dear Mr. Bell:

On several occasions, we met to discuss the above-captioned case which is currently pending national arbitration.

This dispute involves the implementation of the Postal Service Resource Management Database (RMD), its web-based enterprise Resource Management System (eRMS), and the application of current leave-related rules and policies, including the Family and Medical Leave Act.

After discussing this matter, the parties agreed to the following mutual understanding and settlement of this case:

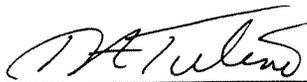
- Pursuant to Article 10 of the National Agreement, leave regulations in Subchapter 510 of the Employee Labor Relations Manual (ELM), which establish wages, hours and working conditions of covered employees, shall remain in effect for the life of the National Agreement. The formulation of local leave programs are subject to local implementation procedures, in accordance with Article 30 of the National Agreement.
- The purpose of RMD/eRMS is to provide a uniform automated process for recording data relative to existing leave rules and regulations. RMD/eRMS (or similar system of records) may not alter or change existing rules, regulations, the National Agreement, law, local memorandums of understanding and agreements, or grievance-arbitration settlements and awards.
- RMD/eRMS enables local management to establish a set number of absences used to ensure that employee attendance records are being reviewed by their supervisor. However, it is the supervisor's review of the attendance record and the supervisor's determination on a case-by-case basis in light of all relevant evidence and circumstances, not any set number of absences, that determine whether corrective action is warranted. Any rule setting a fixed amount or percentage of sick leave usage after which an employee will be, as a matter of course, automatically disciplined is inconsistent with the National Agreement and applicable handbooks and manuals. Any corrective action that results from the attendance reviews must be in accordance with Article 16 of the National Agreement.

- In accordance with the notice in the Federal Register in June 2000, the storage of RMD/eRMS documentation is covered by the Postal Service's Privacy Act System of Records, 170.020. Information maintained in the RMD/eRMS, including, but not limited to, social security numbers, must be in accordance with the rules and regulations regarding Privacy Act System of records. RMD/eRMS users must be authorized to have access to records covered by the Privacy Act System of Records and must comply with the Privacy Act, as well as handbooks, manuals and published regulations relating to leave and attendance.
- Supervisor's notes or records of Article 16.2 discussions are not to be entered in the RMD/eRMS.
- All records of overturned disciplinary actions must be removed from the employee's personnel records kept by the supervisor, the employee's official personnel folder, as well as from RMD/eRMS. Management may cite only "live" disciplinary action as elements of past record in disciplinary action pursuant to Article 16.10, and if a disciplinary action has been modified, the disciplinary records must reflect the final disposition of an action. The RMD/eRMS is programmed to delete records of disciplinary action two years from the time issued if there has been no disciplinary action initiated against the employee, in accordance with Article 16.10 of the National Agreement. However, employees are still responsible for making a written request to have such disciplinary action removed from their official personnel folder.
- Supervisors may maintain copies, summaries or excerpts from other Postal Service personnel records, or records originated by the supervisor, in a system of records defined in ASM 120.190 as "*Supervisors' Personnel Records*." However, information about individuals in the form of uncirculated personal notes and documents kept by Postal Service employees, supervisors, counselors, investigators, etc., which are not circulated to other persons, are not to be entered into RMD/eRMS. (If they are circulated, they become official records in a system of records and must be shown on request to the employee to whom they pertain). The copies, summaries, and excerpts kept in accordance with the ASM 120.190 system of records are destroyed (with the exception of disciplinary records) when the supervisor/employee relationship is terminated. All disciplinary records are transferred to the new supervisor, provided their retention period has not expired.
- Pursuant to part 513.332 of the ELM, employees must notify appropriate postal authorities of their illness or injury and expected duration of absence as soon as possible. Once an employee provides the expected duration of his or her absence, such employee is not required to call in again for the same absence. However, if the expected duration changes, the employee should notify management.
- Pursuant to part 513.361 of the ELM, when an employee requests sick leave for absences of 3 days or less, "medical documentation or other acceptable evidence of incapacity for work or need to care for a family member is only required when an employee is on restricted sick leave (see 513.39) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service." A supervisor's determination that medical documentation or other acceptable evidence of incapacitation is desirable for the protection of the interest of the Postal Service must be made on a case by case basis and may not be arbitrary, capricious, or unreasonable.

- Pursuant to part 513.362 of the ELM, when an employee requests sick leave for absences in excess of 3 days (scheduled work days), employees are required to submit medical documentation or other acceptable evidence of incapacity for work for themselves or of need to care for a family member, and if requested, substantiation of the family relationship. Medical documentation from the employee's attending physician or other attending practitioner should provide an explanation of the nature of the employee's illness or injury sufficient to indicate to management that the employee was (or will be) unable to perform his or her normal duties for the period of absence. Supervisors may accept substantiation other than medical documentation if they believe it supports approval of the sick leave request.
- Pursuant to Article 10 of the National Agreement and applicable leave rules, for an approved absence for which the employee has insufficient sick leave, at the employee's option, such employees must be granted annual leave or leave without pay. When an employee's absence is approved, the employee may use annual and sick leave in conjunction with LWOP, consistent with the applicable leave regulations. In addition, an employee need not exhaust annual or sick leave prior to requesting LWOP.
- Optional FMLA Forms: There is no required form or format for information submitted by an employee in support of an absence for a condition which may be protected under the Family and Medical Leave Act. Although the Postal Service sends employees the Department of Labor Form, WH-380, the APWU forms or any form or format which contains the required information (i.e. information such as that required on a current WH-380) is acceptable.

The parties agreed to continue discussions related to management requesting the nature of the illness when an employee calls in; FMLA second/third opinion procedures; medical documentation requirements to substitute paid leave for unpaid intermittent FMLA leave. In the event no agreement is reached within fifteen (15) days from the date of this settlement, the Union may initiate a dispute at the national level, in accordance with Article 15.4.D. of the National Agreement. If the dispute is not resolved, and the Union appeals the dispute to national level arbitration, the parties agree that the case will be given priority scheduling.

Please sign and return the decision as your acknowledgement of your agreement to settle this case, removing it from the pending national arbitration listing.



Doug A. Tulino  
 Manager  
 Labor Relations Policies and Programs  
 U. S. Postal Service



Mr. Greg Bell  
 Director, Industrial Relations  
 American Postal Workers  
 Union, AFL-CIO

Date: 3-28-03