

NATIONAL ARBITRATION PANEL

In the Matter of the Arbitration)
Between)
)
UNITED STATES POSTAL SERVICE) USPS Case No.: 6X 18C-6X-C 19008442
)
and) APWU No. HQTC20180352
)
AMERICAN POSTAL WORKERS)
UNION, AFL-CIO) (Clerk Craft Jobs)
_____)

BEFORE: Margo R. Newman Arbitrator

APPEARANCES:

For the U.S. Postal Service: Christopher O’Connell,
Michelle Windmueller
Ingrid Merritt
Lauren Heiman
Counsel

For the Union: Adam Breihan
Adreanna Sellers
Samantha Sloane
Counsel

Place of Hearing: Videoconference hearing
Dates of Hearing: March 26 & September 4, 2025
Briefs Received: November 18, 2025
Date of Award: March 4, 2026
Relevant Contract Provisions: Articles 1 & 15
Contract Year: 2018-2021
Type of Grievance: Interpretive/Jurisdictional

INTERIM AWARD

A hearing was held by videoconference before the undersigned on March 26 and September 4, 2025, where the parties had the opportunity to present evidence and make arguments in support of their respective positions. No witness testimony was elicited, and oral presentations were made. The parties filed post-hearing briefs which were received by the arbitrator on November 18, 2025.

At the initial hearing in this case, the Postal Service raised an arbitrability issue, and requested that the hearing be bifurcated to deal with such issue first. After argument, I granted the Postal Service’s request to bifurcate the case, and directed the parties to further discuss whether arbitrability was really an issue, or whether they could agree to address the merits of the dispute before me. The parties were unable to agree on the arbitrability of the Union’s grievance, and the matter proceeded on that issue alone.

RELEVANT FACTS/BACKGROUND:

This dispute concerns certain work preservation provisions in the National Agreement and various MOUs, and involves the application and/or interpretation of the phrase “non-managerial and non-supervisory work” in assigning work to new positions under Article 1.5.A.

In addressing the arbitrability issue, the parties entered into the following Joint Stipulations of Fact.

1. By letter dated October 26, 2018, the American Postal Workers Union (“APWU”) initiated this dispute, USPS #Q15C-4Q-C 19008442/APWU #HQTC20180352 (“this dispute”) at Step 4 pursuant to Article 15 of the Collective Bargaining Agreement (“National Agreement”) between the APWU and the United States Postal Service (“Postal Service”) (collectively “the Parties”).

2. By letter dated November 20, 2018, the Postal Service acknowledged receipt of the APWU's written initiation of this dispute at Step 4.
3. The APWU alleges in dispute #Q15C-4Q-C 19008442/#HQTC20180352 that the United States Postal Service has violated and is continuing to violate the National Agreement, particularly the following provisions:
 - i) Article 1.5;
 - ii) Article 1.6;
 - iii) Article 7;
 - iv) Article 13; and
 - v) Article 37.3.A.1
4. The APWU also alleges in dispute #Q15C-4Q-C 19008442/APWU #HQTC20180352 that the Postal Service has violated and is continuing to violate the three Memorandums of Understanding ("MOUs") listed below, each of which was agreed upon by the APWU and the Postal Service and added for the first time to the 2010-2015 National Agreement, which was effective from November 1, 2010 to May 20, 2015:
 - i) MOU Re: Clerical Work;
 - ii) MOU Re: Clerk Craft Jobs; and
 - iii) MOU Re: Job Audits
5. The APWU further alleges in dispute #Q15C-4Q-C 19008442/APWU #HQTC20180352 that the Postal Service has violated and is continuing to violate the MOU Re: Temporary Assignment, Reassignment, or Reemployment in APWU Represented Crafts of Employees Injured on the Job. This MOU was agreed upon and entered into by the Parties on September 10, 2012, but appears not to have been included in the online or bound versions of the 2010-2015 National Agreement, the 2015-2018 National Agreement, the 2018-2021 National Agreement, and/or the 2021-2024 National Agreement. The Parties are in agreement that the MOU Re: Temporary Assignment, Reassignment, or Reemployment in APWU Represented Crafts of Employees Injured on the Job executed on September 10, 2012, remains enforceable as written.
6. The operable version of the CBA for this national arbitration is the 2018-2021 National Agreement, which was effective from September 21, 2018, to September 20, 2021.
7. The language in the four MOUs identified in Paragraphs 4 and 5, above, did not change between the 2010-2015 National Agreement and the 2018-2021 National Agreement.

8. Ms. Dion Mealy, a representative from the Postal Service’s Labor Relations department, Mr. Lamont Brooks, Director of the Clerk Division of the APWU, and Mr. Sam Lisenbe, Assistant Director (A) of the Clerk Division of the APWU, met regarding this dispute on February 6, 2025.
9. At the February 6, 2025, meeting, the Parties were unable to resolve this dispute. The Parties agreed to exchange 15-day position statements on February 20, 2025, pursuant to the 2018-2021 National Agreement.
10. The Parties exchanged 15-day position statements on February 20, 2025.
11. The Parties agree that the arbitrability question to be decided by the Arbitrator is as follows:

Whether this dispute involves an interpretive issue under the 2018-2021 National Agreement or supplements thereto of general application, consistent with Article 15.5.D.1 of the National Agreement.

The following provisions of the 2018-2021 National Agreement are relevant to the arbitrability issue in this case.

ARTICLE 1 - UNION RECOGNITION

* * * * *

Section 5. New Positions

A. Each newly created or revised position which contains non-managerial and non-supervisory duties shall be assigned by the Employer to the National craft union most appropriate for such position within thirty (30) days after its creation or revision. In addition, the Employer shall identify all new non-managerial and non-supervisory work and assign such work at the National Level to the National craft unit most appropriate for performance of such work within thirty (30) days of having done so. Before such assignment of each new or revised position or non-managerial and non-supervisory work the Employer shall consult with the Union signatory to this Agreement for the purpose of assigning the new or revised position or non-managerial and non-supervisory work to the National craft unit most appropriate for such

position. The following criteria shall be used in making this determination:

1. existing work assignment practices;
2. manpower costs;
3. avoidance of duplication of effort and “make work” assignments;
4. effective utilization of manpower, including the Postal Service’s need to assign employees across craft lines on a temporary basis;
5. the integral nature of all duties which comprise a normal duty assignment;
6. the contractual and legal obligations and requirements of the parties.

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(See Memos, pages 269-270)

ARTICLE 15 - GRIEVANCE-ARBITRATION PROCEDURE

* * * * *

D. National Level Arbitration

1. Only cases involving interpretive issues under this Agreement or supplements thereto of general application will be arbitrated at the National Level.

PARTIES' POSITIONS:

The Postal Service asserts that the legal standard for a dispute to be arbitrable at the National level, as noted in Article 15.5(D)(1), is that it must identify an interpretative issue of general application, citing *USPS & APWU*, Case No. H0C-3D-D 8598 (Snow, 1994). It contends that the Union failed to meet that standard, as it did not identify a dispute about the meaning of “non-managerial” and “non-supervisory.” The Postal Service points out that prior to the hearing, the Union used those phrases as if both parties understood what they referred to, and that the alleged dispute was about the assignment

of those duties. It maintains that the grievance papers focus on the application of that language, and not its interpretation, which is more appropriate for regional arbitration at the affected facility, relying on *USPS & APWU*, Case Nos. Q10V-4Q-C 15292655 (Das, 2017); Q98C-4Q-C 01238942 (Das, 2003); Q06CC-4Q-C 10032106 and 10005587 (Das, 2010).

The Postal Service notes that the Union cites the Clerk Craft Jobs and Temporary Reassignment MOUs as having been violated, despite the fact that neither use the allegedly disputed terms. It asserts that if the dispute concerns the presumption language under the Clerk Craft Jobs MOU, the Union has shown no evidence of an actual dispute. The Postal Service states that the ultimate issue is about how it has assigned work under Article 1.5(A), and the application of the presumption on a case-by-case basis.

The Postal Service alleges that since the grievance was filed, the dispute was all about the assignment of clerk craft work to employees outside the clerk craft, but at the hearing on September 4, the Union advanced a new argument regarding the meaning of non-managerial and non-supervisory work. The Postal Service notes that a review of prior documents and arguments in the grievance procedure reveals that the Union disputed the assignment of non-managerial, non-supervisory work, and never claimed an interpretative dispute about the meaning of those terms. It asserts that the Union cannot be allowed to raise a new interpretive issue for the first time at National arbitration, as it thwarts the agreed-upon contractual process identified in Article 15.4(D), which requires (1) the initiation in writing identifying the precise interpretive issues, facts and contentions of the parties, (2) a meeting, and (3) a statement about its understanding of the issues and relevant facts. The Postal Service posits that only after the Union has exhausted that procedure can it appeal an interpretive issue to arbitration, citing *USPS & APWU*, Case No. H0C-NA-C 38 (Byars, 2009).

With reference to an argument raised by the Union regarding its holding similar local grievances in abeyance, the Postal Service points out that such action was only done in compliance with Articles 15.2 Step 4(a) and 15.4(D), which require the parties to hold local grievances regarding the same issue as one in National arbitration in abeyance pending resolution of that National case. It also contends that such conduct is not acquiescence to the existence of an interpretive issue. The Postal Service maintains that, in those cases, it made clear its understanding of the dispute regarding the assignment of non-managerial, non-supervisory work in accordance with the MOUs. It also asserts that a challenge to procedural arbitrability can be raised at any time, relying on *USPS & APWU*, Case No. H7T-3W-C 12454 *et. al.* (Mittenthal, 1992); *USPS & NALC*, Case No. H7N-1A-C 25966 (Snow, 1992).

The Union contends that the dispute involves an interpretative issue of general application, which means a difference regarding the meaning of the Agreement which has the potential to affect the general operation and overall relationship of the parties, relying on *USPS & APWU*, Case No. H0C-3D-D 8598 (Snow, 1994). It maintains that when challenging arbitrability and asserting a position which bars a hearing on the merits of the dispute, the Postal Service has the burden to establish that the dispute does not meet the contractual requirements, and is held to a strict standard of proof - no reasonable basis for rejecting the defense, citing *USPS & APWU*, Case No. H0C-NA-C 12 (Snow, 1999); *USPS & APWU*, Case Nos. C7T-4B-D 24850 & C7C-4R-D 25491 (Newman, 1990 & 1991). The Union asserts that the Postal Service often raises this type of issue, but rarely meets its burden of proof, relying on *USPS & APWU*, Case No. H7T-3W-C 12454 *et. al.* (Mittenthal, 1992).

The Union argues that this grievance asks an interpretive question, showing a legitimate dispute about the meaning of the language of the National Agreement that

requires applying tools of contract constructions, relying on *USPS & NALC*, Case No. H7N-1A-C 25966 (Snow, 1992); *USPS & APWU & NALC*, Case No. H4C-NA-C 34 (Mittenthal, 1992). It relies on the dispute about the meaning and intent of the language “non-managerial/non-supervisory” in the Agreement’s work preservation articles and MOUs, whether there is a bright red line as opposed to a concept of shared duties, and whether contractual requirements that such work be assigned to the bargaining unit is satisfied by the Postal Service sometimes assigning it to bargaining unit employees and sometimes to non-bargaining unit EAS employees, citing *USPS & APWU & NALC*, Case Nos. H4C-NA-C 20 & H4V-NA C 33 (Mittenthal, 1987); *USPS & APWU*, Case No. A-C-N 6922 (Snow, 1990). The Union distinguishes *USPS & APWU*, Case No. Q10V-4Q-C 15292655 (Das, 2017) by the fact that the Postal Service agreed there to the Union’s interpretation of the relevant Agreement language, and the allegations were of multiple contract violations in different locations.

The Union confirms that this is a dispute of general application, since its substantive nature has the potential to affect the general operation of the organization and the overall relationship between the parties. It points out that a determination of the dispute will guide the conduct of the parties at numerous facilities as they understand the meaning of the disputed language. The Union posits that it seeks an interpretation of the framework the parties created in the 2010 National Agreement to give and assign work rationally, and that the provisions involved are national in character and involve national processes and standards. It notes that the Postal Service acknowledged the national character of the dispute when it held regional cases in abeyance.

The Union argues that the Postal Service had notice of the issue, since the parties had a chance to define their disagreement with reasonable specificity, an opportunity to interact informally about it, and the Postal Service had adequate opportunity to prepare a

defense. It points to its Step 4 grievance, which alleges a violation of the work preservation provisions by failing to assign and/or reassign all non-managerial and non-supervisory work to the clerk craft bargaining unit in Retail Customer Service and Customer Service Support. The Union asserts that the Postal Service demonstrated its understanding in its interpretive referral letters, the parties met to discuss the issue, and their 15 day letters provided further detail about the bright line vs. shared duties interpretive dispute. It notes that the parties communicated numerous times since the grievance filing over 7 years ago, identified the contract provisions in dispute, discussed their evidence and arguments, and there was no surprise evidence presented, unlike in the Byars 2009 and Goldberg 2012 awards. The Union asserts that a restatement or rewording of the issue over time does not undermine the Postal Service's notice of the issue in dispute, citing *USPS & APWU & NALC*, Case No. H0C-NA-C 12 (Snow, 1999). It posits that it has not raised a new argument, but has always referred to the parties' different understandings of the non-managerial/non-supervisory distinction.

The Union requests rejection of the Postal Service's other procedural arguments. It asserts that it need not isolate specific terms or phrases in the National Agreement in order to raise an interpretive issue, citing *USPS & APWU*, Case Nos. Q06C-4Q-C 09250752, Q10V-4Q-C 12324573, Q10C-4Q-C 14011344 (Goldberg, 2012, 2013 & 2016); H4N-NA-C 21 7 23 (Mittenthal, 1986). The Union states that it is not barred from citing multiple provisions that are interrelated and make up a framework for return of bargaining unit work, as it did here.

DISCUSSION AND FINDINGS:

As noted, the only issue before me at this point is whether the Union's grievance raises a dispute that is arbitrable at the National level.¹ Numerous arbitrators have defined the appropriate inquiry in such cases - whether the grievance raises an interpretive issue of general application. See, e.g. *USPS & APWU*, Case No. H0C-3D-D 8598 (Snow, 1994); *USPS & APWU*, Case No. H0C-NA-C 12 (Snow, 1999); Q06CC-4Q-C 10032106 and 10005587 (Das, 2010); *USPS & APWU*, Case Nos. Q10V-4Q-C 15292655 (Das, 2017); *USPS & APWU & NALC*, Case No. H4C-NA-C 34 (Mittenthal, 1992).

The grievance documents, and other correspondence between the parties, defines the interpretive dispute as - what is the meaning and scope of the phrase "non-managerial and non-supervisory" work in Article 1.5.A in the context of the cited MOUs and work preservation language negotiated into the National Agreement. A resolution of this dispute involves the application of contract interpretation principles to ascertain the parties' intent with respect to the meaning of the disputed language, not just a question of fact. *Cf. USPS & APWU*, Case No. H0C-3W-C 4833 (Snow, 1993). It is the position of the Postal Service that there is no disagreement about the meaning of the language "non-managerial and non-supervisory work," and that such argument was raised for the first time at arbitration.

I am unable to accept the Postal Service's contention that it did not understand the nature of the dispute, and did not have an opportunity to discuss it or defend its position during the grievance procedure. While the Postal Service admitted that it finally understood the Union's interpretive issue during the March 26, 2025 hearing, the

¹ This is not a general arbitrability issue impacting the ability of the parties to address the merits of the dispute. Rather, it is a question of which forum is appropriate for such inquiry. Thus, the presumption in favor of arbitrability has limited relevance.

documentation reveals that it was fully aware of the nature of the interpretive dispute during earlier periods of the grievance processing. For example, in its 2023 and 2024 letters holding certain regional cases in abeyance pending this national dispute, the Postal Service identified the national dispute as whether it has assigned non-managerial and non-supervisory work to Clerk craft bargaining unit employees in Retail/Customer Service and Customer Service Support in accord with the cited MOUs.

Further, the parties' 15 day letters in this case, issued on February 20, 2025 after having held a Step 4 meeting, make clear the parties' understandings of the nature of the dispute. In the Union's letter it states its position that the Agreement language creates a bright red line between bargaining unit work and EAS managerial/supervisory work, and that there is no contractual support for the concept of "shared duties" after the parties' commitment in bargaining to return non-managerial and nonsupervisory duties to the bargaining unit. In its letter, the Union provided a list of duties and positions within the Clerk craft to which the duties could be assigned.

The Postal Service's 15 day letter identified the issue as whether performance of work by Clerk craft employees and EAS employees in Retail/Customer Service and Customer Service Support violates the cited MOUs. It notes the Union's assertion that the Postal Service has failed to assign all non-managerial and non-supervisory work to the Clerk craft bargaining unit. It also raises the Postal Service's claims that these are fact specific issues of how such assignments are handled at the local level.

The record identifies a dispute between the parties as to the scope and meaning of the phrase "non-managerial and non-supervisory work" contained in Article 1.5.A (as well as various related MOUs) which requires an interpretation of the Agreement language and other relevant evidence of the parties' intent concerning the language. Thus,

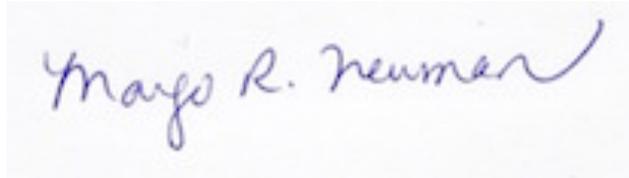
the grievance satisfies the first prong of the test contained in Article 15.D with respect to National level disputes - it involves an interpretive issue.

I find that the second prong of the test - whether it is of general application - is also satisfied in this case. The entire scheme negotiated by the parties in Article 1.5 (and related MOUs) involves actions by the parties at the National level. Both Article 1.5 and the MOUs reveal processes including notice of new positions and/or new non-managerial/non-supervisory work to be given to the Union at the National level, and the creation of positions and assignment of the new work is to occur at the National level. The Job Audit MOU created national job audits of EAS positions, and the resulting assignment of work to a specific position was to occur at the National level. The Postal Service's 15 day letter identifies 2 National programs involved in the work assignments. The Union's 15 day letter includes position descriptions that are standard and exist at the National level, not only the local level.

These examples reveal how this grievance involves a dispute of general application. It is clear that a resolution of the interpretation of the disputed language in the National Agreement and MOUs will impact job descriptions and job assignments across the country, as well as specified programs existing nationwide. The entire context for the work preservation provisions of the National Agreement is nationally focused, and may well impact the content of positions and the assignment of specifically identified work functions across the board. This is not a factual dispute about the assignment of specific duties at a particular location. It is an interpretive dispute concerning the scope of non-managerial and non-supervisory work being performed in positions outside the bargaining unit, and whether such performance violates the relevant Agreement provisions. As such, I conclude that the grievance in this case is arbitrable at the National level.

INTERIM AWARD:

The grievance is arbitrable at the National level as it presents an interpretive issue of general application under Article 15.D.

A rectangular box containing a handwritten signature in blue ink that reads "Margo R. Newman".

Margo R. Newman, Arbitrator