

# 3 Good Reasons To Know About Attendance And The P.O.

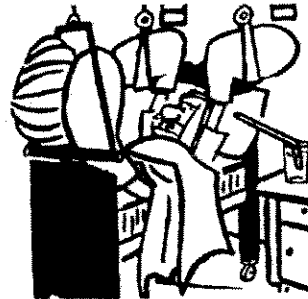


GREATER LOS ANGELES AREA LOCAL

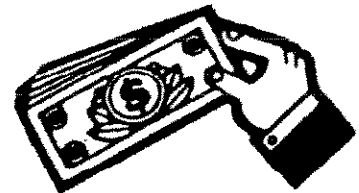
# Attendance & The P.O.



POSTAL  
SERVICE



YOUR HEALTH



YOUR JOB

**AMERICAN POSTAL WORKERS  
UNION, AFL-CIO  
Greater Los Angeles Area Local**

**OMAR M. GONZALEZ  
GENERAL PRESIDENT/AUTHOR**

From the Author

# Attendance Is Serious

Dear Member:

Day in and day out we in the Union are faced with representing members who find themselves in disciplinary problems due to their attendance at work.

There are very few employees in the Postal Service who are immune to the attendance mess management has created.

I say management has created the mess because there is no real uniform manner or just manner in which they implement the U.S. Postal Service's leave program.

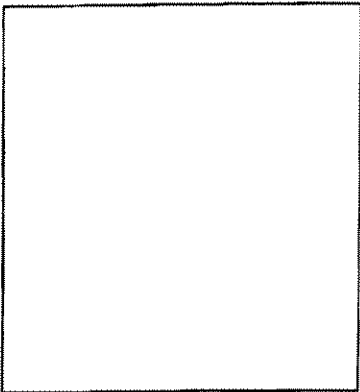
So we take this opportunity to use the best weapon possible to combat the attendance abuse problem at the post office — EDUCATION! This booklet is designed to give you the highlights of the leave program so that you can grasp the fundamental rules of the attendance game.

I sincerely hope it is of benefit to you. It is based on postal rules and regulations, as well as, contractual obligations of the parties. In some cases, arbitration decisions are cited for your use in combating unnecessary harassment over your attendance.

If we can be of help in any problem, please call us.

Fraternally,

Omar M. Gonzalez  
General President



**OMAR M. GONZALEZ**  
GENERAL PRESIDENT

## UNITED STATES POSTAL SERVICE POLICY ON LEAVE

The United States Postal Service policy is to administer the leave program on an equitable basis for all employees, considering:

- (a) the need of the United States Postal Service and
- (b) the welfare of the individual employee. (Emphasis ours)

(ref. 511.1 ELM)

You see, the official policy is two fold. First, of course, is the need of the United States Postal Service and, secondly, the welfare of the individual employee.

Let's example these two needs —

**THE SERVICE** — In order to understand the needs you must examine the mission of the Postal Service. Of course the bottom line mission is to deliver the mail.

To get a better picture of the scope of the mission let's take a look at it from the contract viewpoint by examining Article 3 of the National Agreement.

**MANAGEMENT HAS EXCLUSIVE RIGHTS TO DIRECT EMPLOYEES IN THE PERFORMANCE OF DUTIES. THEY HAVE THE RIGHT TO HIRE, PROMOTE, TRANSFER, ASSIGN AND RETAIN EMPLOYEES IN POSITIONS WITHIN THE POSTAL SERVICE.**

**MANAGEMENT HAS THE RIGHT TO SUSPEND, DEMOTE, DISCHARGE, OR TAKE OTHER DISCIPLINARY ACTION AGAINST SUCH EMPLOYEES AND TO MAINTAIN THE EFFICIENCY OF OPERATIONS INTRUSTED TO IT AS WELL AS TO DETERMINE THE METHODS, MEANS, AND PERSONNEL BY WHICH SUCH OPERATIONS ARE TO BE CONDUCTED.**

**MANAGEMENT ALSO HAS THE RIGHT TO PRESCRIBE A UNIFORM DRESS TO BE WORN BY LETTER CARRIERS AND OTHER DESIGNATED EMPLOYEES, AS WELL AS, TO TAKE WHATEVER ACTIONS MAY BE NECESSARY TO CARRY OUT ITS MISSION IN EMERGENCY SITUATIONS.**

## ***ARE ALL THESE RIGHTS ABSOLUTE?***

The answer is NO! All of management's so called "rights" are subject to the provisions of the contract, including the local contract, as well as, be consistent with applicable laws and regulations.

The Attendance regulations are subject to the same scrutiny as are all of management's rules. But as in all the other rules and regulations MOST people do not know them.

The contract rules that subject management's actions on attendance are as follows:

- ARTICLE 1 = UNION RECOGNITION
- ARTICLE 2 = NON DISCRIMINATION & CIVIL RIGHTS
- ARTICLE 3 = MANAGEMENT RIGHTS
- ARTICLE 5 = PROHIBITION OF UNILATERAL ACTION
- ARTICLE 8 = HOURS OF WORK
- ARTICLE 10 = LEAVE
- ARTICLE 11 = HOLIDAYS





ARTICLE 15 = GRIEVANCE ARBITRATION  
PROCEDURE  
ARTICLE 16 = DISCIPLINE PROCEDURE  
ARTICLE 17 = REPRESENTATION  
ARTICLE 19 = HANDBOOKS AND MANUALS  
ARTICLE 30 = LOCAL IMPLEMENTATION  
ARTICLE 31 = UNION-MANAGEMENT  
COOPERATION

In one way or another, all these contractual articles relate to the administration of the leave program.

The two primary ones are Article 10 and 19 as they directly mandate regulations contained in the **EMPLOYEE & LABOR RELATIONS MANUAL (ELM)** as well as the various time and attendance manuals of the Postal Service.

The other important articles deal with the grievance procedure (Article 15) and the discipline procedure (Article 16).

## ***NEEDS OF THE EMPLOYEES***

According to the official postal policy on attendance employees don't have needs, per se! What is to be considered is the **WELFARE** of the individual employee.

There are no regulations that define what is meant by the welfare of the worker. Some sections of the regulations do define leave purposes, but they do not guarantee any rights to leave.

Let's examine what I mean. Take, for example, Annual Leave! According to the rules, it's provided for rest, recreation and for personal and emergency purposes. In all cases, it is subject to the approval of a supervisor. (512.11, 512.422 ELM).

The same applies for sick leave as even in the case of unexpected illness/injury, the supervisor is the one that approves or disapproves the leave request. (513.322 ELM).

## ***SO WHAT IS THE WELFARE OF THE INDIVIDUAL EMPLOYEE?***

Fact is, it's based on a case by case basis. If you call in for emergency annual leave due to a car not starting; it is not the same kind of an emergency as if your house burned down. An argument could be more forceful over the second circumstance than the car trouble.

Of course, in the case of sick leave, if you suffer a heart attack and can't call in before reporting that individual circumstance would be considered as opposed to a situation where you have a cold and don't call in.

## **SO WHAT GOOD IS HAVING SICK AND ANNUAL LEAVE?**

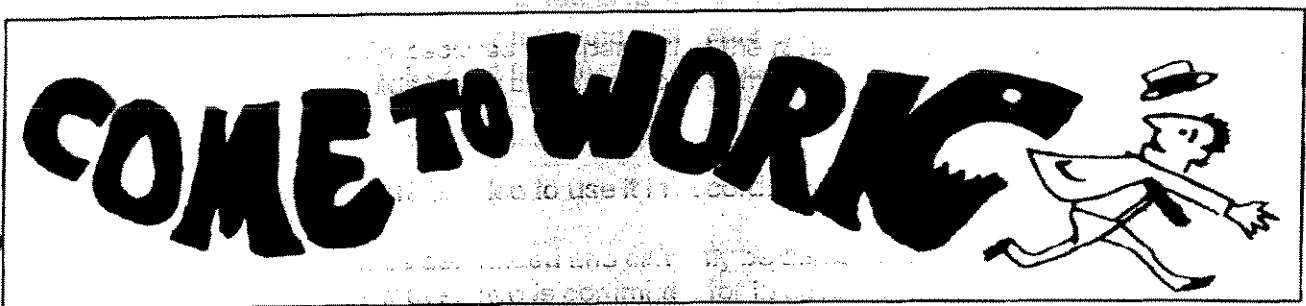
We can't just give up the ship because it appears that the rules favor the bosses. The fact is if we apply the rules and use the rules to our benefit, we can come out on top in the attendance game or at least even up the score.

You earn leave and therefore are entitled to use it in accordance with regulations and the contract.

Scheduled vacation time can be demanded and can only be denied in an actual serious emergency. This the contract guarantees if the leave is committed for in advance (Art. 10, Section 4-c).

Maintaining a good sick and annual leave balance is MOST worthwhile! It is protection against an unforeseen set of circumstances that may call for extended leave of absence.

It is not so much a matter of having sick and annual leave, but a regular attendance record.



## **WHAT IS BEING REGULAR IN ATTENDANCE?**

Here is another one of those words that is undefinable according to regulations.

The term comes into use by way of a section in the Employee Labor Relations Manual (ELM) that states an employee is to be regular in attendance. (Sec. 666.8 EIM).

After that general mandate, there is no rule for what is regular attendance. The bosses are too quick to come up with their own nonsense and rules.

The Union is always in a fight over some silly rule like - 3 calls in a month or using more leave than you earn is abusive.

The Union gets its position on this from management's own rules which state:

**"NO MINIMUM SICK LEAVE BALANCE IS ESTABLISHED BELOW WHICH THE EMPLOYEE'S SICK LEAVE RECORD IS AUTOMATICALLY CONSIDERED UNSATISFACTORY." (513.371c ELM)**

You may ask — "How is it then that management can fire an employee even if they are sick?" Well, the fact is, that no employer in this country is required to maintain an employee who does not come to work.

## Attendance — A Question Of Ethical Conduct

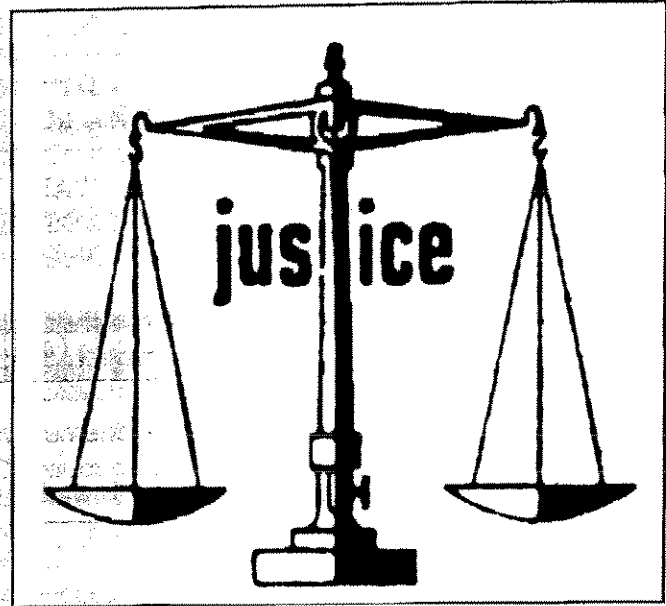
Believe it or not, the principle rules by which management takes discipline against an employee for attendance irregularity are found in the Code of Conduct of the United States Postal Service.

Attendance is a part of the Code of Conduct of every postal worker, including the bosses.

Beside the requirement to be regular in attendance the rules in Chapter 666.8 also state what happens to workers who are absent without permission and are tardy.

The absence without permission rule applies to all employees who fail to report on scheduled days, Saturdays, Sundays and even holidays. These employees are to be considered AWOL EXCEPT in actual emergencies which prevent them from obtaining permission in advance. (666.82 ELM)

Tardiness in unites equipped with time recorders in any deviation from schedule.



All postal workers are aware that they must come to work and be productive while on the clock. There are times when an employee becomes too ill to report to work.

There are times when an employee just doesn't feel like coming to work and there are even times when an employee stays off work because of the fear or shame of returning after an unauthorized absence.

The vast majority of employees report to duty every scheduled day. Many take pride in building enormous sick leave balances. Some are simply content in maintaining a fair balance of leave and watching their attendance.

Some, however, are met with misfortune and get ill or meet with a bad accident which causes an extended period of time off from work.

Few are merely abusers and malingerers who take advantage of a soft system and make it bad for those who really deserve consideration.

No matter what category a member may find him/herself in the fact remains that the rules cover all workers no matter what their reasons are for not coming to work.

The bad thing is management bunches everybody together in a negative vain. It is up to us to make sure they don't get away with it!

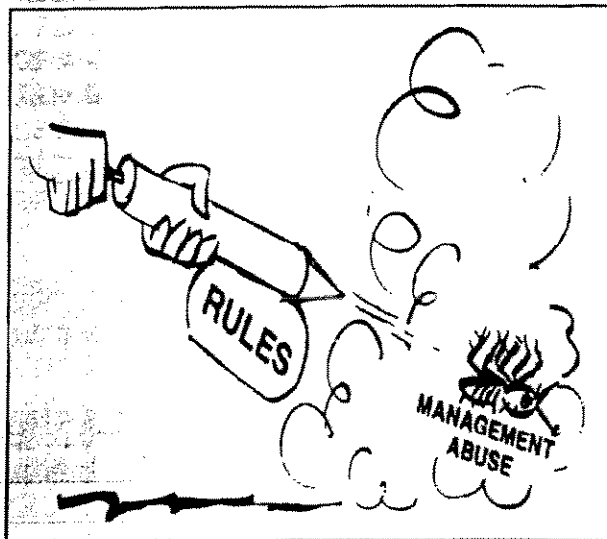
## So What Are The Rules And Regulations?

Well, let's start by looking at the worker's responsibility under the leave regulations.

All workers must request leave on a PS 3971 and get approval of the PS 3971 prior to taking leave — except of course in emergencies. Also workers are to avoid forfeiting annual leave at the end of the year.

Workers are to maintain their assigned schedule and have to make every effort to avoid unscheduled absences. Also, a worker has to provide acceptable evidence for absences when required. (511.23; 51.43 ELM)

Number one rule — "AVOID SCHEDULED ABSENCES"



### WHAT IS AN UNSCHEDULED ABSENCE?

"UNSCHEDULED ABSENCES ARE ANY ABSENCES FROM WORK WHICH ARE NOT REQUESTED AND APPROVED IN ADVANCE." (511.41ELM)

Now you might ask — "How am I to know when I will be sick in advance of being sick?" You can't!

The rules don't call for you to be a wizard. The rules call for you to be regular in attendance and avoid unscheduled absences.

It's management's responsibility to control unscheduled absences. THEY ARE REQUIRED TO

- INFORM YOU OF LEAVE REGULATIONS
- DISCUSS ATTENDANCE RECORDS WITH YOU WHEN WARRANTED
- MAINTAIN AN ABSENCE ANALYSIS ON YOU AND ALL YOUR PS 3971s

MANAGEMENT MUST ALSO ADMINISTER THE LEAVE PROGRAM, INFORM YOU OF YOUR LEAVE BALANCE, APPROVE OR DISAPPROVE REQUEST FOR LEAVE, RECORD LEAVE IN ACCORDANCE WITH HANDBOOKS AND OF COURSE CONTROL UNSCHEDULED ABSENCES.

The fact is you must be educated by management on the leave regulations. Not the fly by night rules they come up with from the far reaches of their zany heads. You must be informed of the actual regulations. This can be in the form of an official booklet, or official stand up talk or even private discussions.

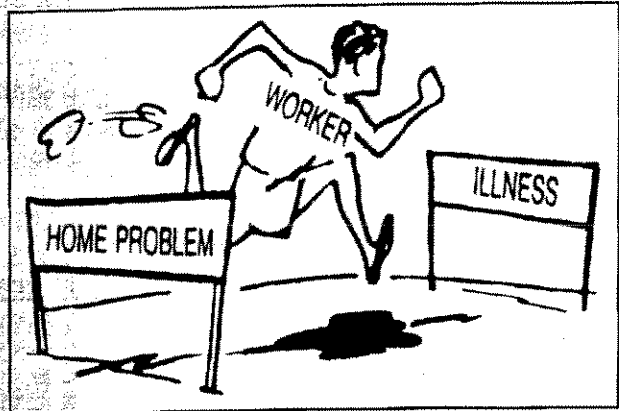
A supervisor is not supposed to wait for irregularity before discussing the leave regulations with each and every employee under his/her supervision.

## What Do They Mean "Every Effort" To Avoid Unscheduled Absences?

Well, fact is, there is no definition for "every effort". One would have to take the rule literally.

Management's guidelines point to the responsibility of a worker to do everything reasonably possible to come to work even if an emergency arises. Also, management believes that no employee should put him/herself in a situation that could create a reason for not coming to work.

Here is where the union fights them! The rules clearly state that the exception to the rule is an emergency.



**EXCEPT FOR UNEXPECTED ILLNESS/INJURY SITUATIONS, SICK LEAVE MUST BE REQUESTED ON FORM 3971 AND APPROVED IN ADVANCE BY THE APPROPRIATE SUPERVISOR.**

**AN EXCEPTION TO THE ADVANCE APPROVAL REQUIREMENT IS MADE FOR UNEXPECTED ILLNESS/INJURIES. HOWEVER, IN THESE SITUATIONS THE EMPLOYEE MUST NOTIFY APPROPRIATE POSTAL AUTHORITIES AS SOON AS POSSIBLE AS TO THEIR ILLNESS/INJURY AND EXPECTED DURATION OF ABSENCE.**

**AS SOON AS POSSIBLE, AFTER THE RETURN TO DUTY, EMPLOYEES MUST SUBMIT A REQUEST FOR SICK LEAVE FORM 3971. EMPLOYEES MAY BE REQUIRED TO SUBMIT ACCEPTABLE EVIDENCE OF INCAPACITY TO WORK THE SUPERVISOR APPROVES OR DISAPPROVES THE LEAVE REQUEST.**

**WHEN THE REQUEST IS DISAPPROVED, THE ABSENCE MAY BE RECORDED AS ANNUAL LEAVE. IF APPROPRIATE, AS LWOP OR AWOL, AT THE DISCRETION OF THE SUPERVISOR.** (513.331; 332 ELM)

**THE SUPERVISOR IS RESPONSIBLE FOR APPROVING OR DISAPPROVING APPLICATIONS FOR SICK LEAVE BY SIGNING THE FORM 3971. A COPY OF WHICH IS GIVEN TO THE EMPLOYEE.**

**IF A SUPERVISOR DOES NOT APPROVE AN APPLICATION FOR LEAVE AS SUBMITTED, THE DISAPPROVED BLOCK ON THE FORM 3971 IS CHECKED AND THE REASONS GIVEN IN WRITING IN THE SPACE PROVIDED.**

**WHEN A REQUEST IS DISAPPROVED, THE GRANTING OF ANY ALTERNATIVE TYPE OF LEAVE, IF ANY, MUST BE NOTED ALONG WITH THE REASON FOR THE DISAPPROVAL. AWOL DETERMINATIONS MUST BE SIMILARLY NOTED (513.342 ELM)**



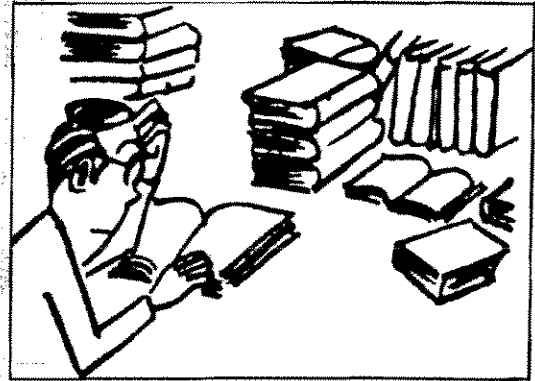
## O.K. Let's Look At The Other Rules And Definitions

### **AWOL**

Absence Without Leave is a non pay status resulting from a determination that no kind of leave (including LWOP) can be granted, either because the employee did not obtain advance authorization for the absence, or the employee's request for leave was denied.

Any employee can be charged with AWOL!

All employees who are absent without notification or permission are considered AWOL pending the receipt of the facts in each case. AWOL is an administrative matter which is to be handled by the head of the installation for purposes of making a final time recording disposition. In all cases of AWOL, which comes to the attention of the timekeeper, he should notify the appropriate supervisor. The matter then becomes the responsibility of the supervisor to resolve. (394 F-22).



### **SICK LEAVE**

Sick leave insures employees against loss of pay if they are incapacitated for the performance of duties because of illness, injury, pregnancy and confinement, and medical (including dental or optical) examination or treatment.

Sick leave cannot be granted until it is earned except for Advanced Sick Leave. A request is made in duplicate on Form 3971, and approved in advance by an appropriate supervisor, except for unexpected illness or injury situations in which case an employee must submit a request for Sick Leave on Form 3971 as soon as possible after return to duty.

If Sick Leave is approved, but the employee doesn't have sick leave to cover the absence, the difference is charged, AT THE EMPLOYEE'S OPTION, TO LWOP or Annual Leave. If the employee has annual leave, LWOP so charged cannot later be converted to Sick or Annual Leave.

**ADVANCED SICK LEAVE (240 HOURS) MAY BE ADVANCED TO WORKERS IN CASES OF SERIOUS DISABILITY OR AILMENTS IF THERE IS REASON TO BELIEVE THE EMPLOYEE WILL RETURN TO DUTY. SICK LEAVE MAY BE ADVANCED EVEN IF AN EMPLOYEE HAS ANNUAL LEAVE, MEDICAL DOCUMENTATION MUST SUPPORT EACH REQUEST FOR ADVANCED SICK LEAVE.**

### **LWOP**

Leave Without Pay is an authorized absence from duty in a non pay status. LWOP may be granted upon an employee's request and covers only those hours which the employee would normally work or for which the employee would normally be paid.

Granting of LWOP is an administrative discretion. It is not granted on employee demand except for

DISABLED VETERAN'S NEEDING MEDICAL ATTENTION and RESERVISTS, OR NATIONAL GUARD members needing LWOP to perform military duties, as well as on the job injury cases.

## **ANNUAL LEAVE**

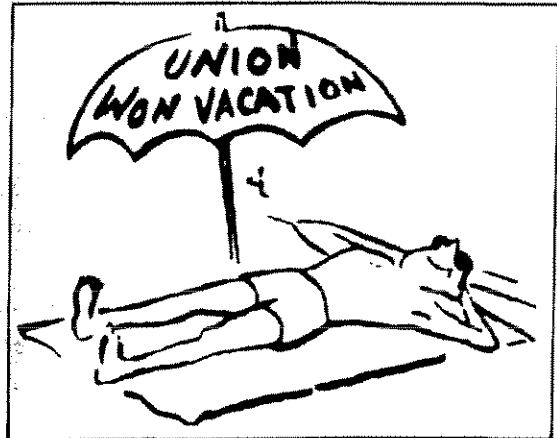
Annual leave is provided to employees for rest, for recreation and for personal and emergency purposes. Employees must be employed 90 days in order to take annual leave.

Application is made in writing, in duplicate, on Form 3971. Supervisors are responsible for approving or disapproving applications for annual leave by signing the Form 3971, a copy of which is given to the employee.

Except for emergencies, annual leave for all employees must be requested on Form 3971 and approved in advance.

In emergency situations, the employee must notify appropriate postal authorities, as soon as possible, as to the emergency and the expected duration of the absence.

As soon as possible after return to duty, the employee must submit Form 3971 and explain the reason for the emergency to his supervisor.



## **MILITARY LEAVE**

Military leave is authorized absence from postal duties without loss of pay, time or performance rating granted to eligible employees who are members of the National Guard or Reservists of the Armed Forces.

Generally, an employee must be in a pay status either immediately prior to the beginning of military duty or immediately after the end of military duty in order to be entitled to Military Leave.

Non-work days falling within the period of military duty specified by the official military orders are charged against the military leave allowance. Non-work days falling at the beginning and end of such military duty periods are not charged.

The employee must initiate a Form 3971 after he/she receives orders to report for duty. Upon return from military duty, the employee furnishes a copy of military orders, properly endorsed by an appropriate military authority to show the duty was performed.

## **COURT LEAVE**

Court Leave is the authorized absence (without loss of or reduction in, pay or leave to which otherwise entitled, credit for time or service, or performance rating) of an employee from work status for jury duty or for attending judicial procedures in a non-official capacity as a witness on behalf of a state or local government. Court leave is only granted to eligible employees who, but for jury duty or service as a witness in a non-official capacity on behalf of the state or local government, would be in a work status or on Annual Leave.

Eligible employees who are summoned for each court service while on annual leave are placed in a Court Leave status for the duration of the court service.

A PS 3971 is to be initiated and the Supervisor is supposed to initiate Form 1224 Court Duty Leave — Statement of Service, complete the required information on the form and give it to the employee. The supervisor is to tell the employee that the Form 1224 is to be completed by an Officer of the Court. Original goes to employee for Court Officer completion and a copy to the timekeeper.

## **HOLIDAY LEAVE**

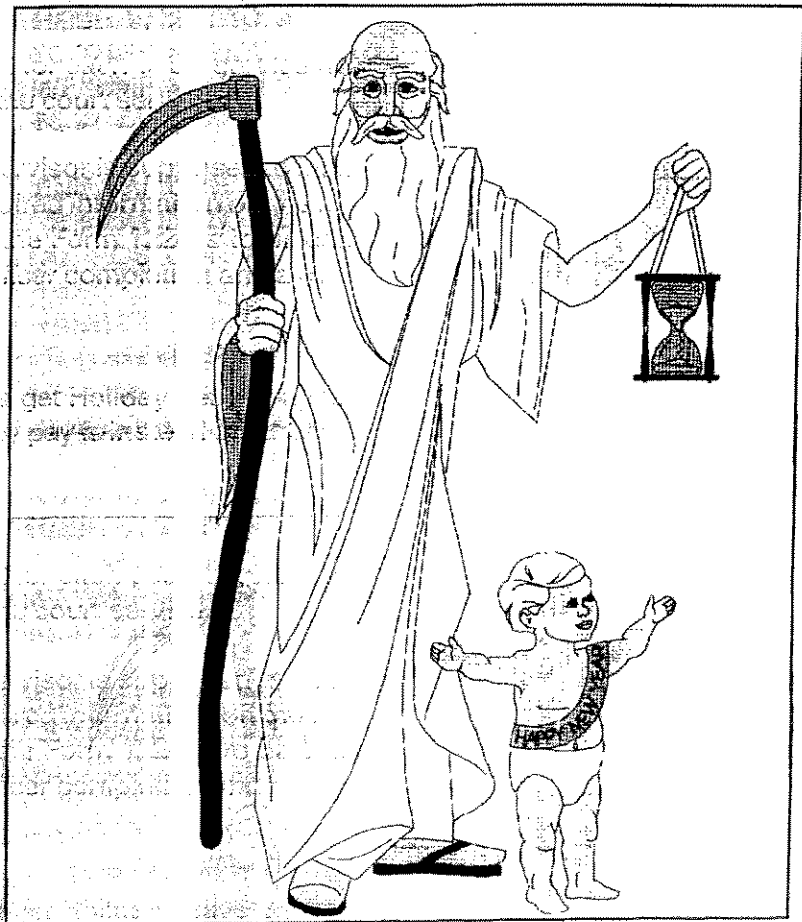
On Official holidays, eligible employees get Holiday Leave pay for a number of hours equal to their regular daily work schedule. This holiday pay is instead of other paid leave which an employee might otherwise be entitled to on his holiday.

If a holiday falls on an eligible employee's regular scheduled work, including Saturday or Sunday, the employee observes the holiday on that day, the first scheduled day preceding the holiday is designated the employee's holiday.

When a holiday falls on a Sunday which is a nonscheduled work day for an employee. Monday is designated as the employee's holiday. However, if Monday is also a nonscheduled work day, then Saturday is designated as the employee's holiday.

A full-time or part-time regular employee who is scheduled to work on a holiday (or designated holiday) and does not work, the employee will not receive holiday leave pay unless the absence is based on extreme emergency and is excused by the supervisor. PTFs are not eligible.

To be eligible for Holiday Leave Pay, the employee must be in a pay status (either work hours or paid leave) for the last hour of his scheduled work day prior to, or the first hour of the employee's scheduled work day after the holiday or designated holiday.



THERE ARE OTHER TYPES OF LEAVE NOT LISTED HERE. HOWEVER, THESE ARE BASIC ONES IF YOU ARE INTERESTED IN OTHER TYPES CALL YOUR UNION OFFICE FOR MORE INFO.

## Attendance And Discipline Why Can I Get Fired?

The fact is postal workers are required to come to work. In the past decade, the once liberal leave policy of the Postal Service began to change. Since 1970, the rules for leave, time and attendance have become more rigid and thousands of postal workers throughout the country have lost their jobs because of attendance irregularities.

It is not just AWOL charges, or No Call AWOL that can get you fired. The fact is even approved absences can and sometimes do not result in termination.

### IN A NUT SHELL FROM AN ARBITRATOR

"ABSENCES APPROVED FOR PAY PURPOSES ON FORM 3971 MAY BE CONSIDERED AS PART OF AN EMPLOYEE'S OVERALL ATTENDANCE RECORD FOR DISCIPLINARY PURPOSES."

(Syd Rose, Arbitrator)



### WORKERS MUST COME TO WORK

The ultimate battle ground on discipline cases is the arbitration hearing. Most workers will never see the inside of a hearing room. The hearing is conducted like a court room proceeding.

The "judge" is called an arbitrator. In a very anti-worker decision one arbitrator summed up management's whole argument and shot down the Union's position in the following National Union arbitration award.

"THE UNDERSIGNED MUST REJECT THE UNION'S CONTENTION THAT THE SERVICE IMPROPERLY LUMPED TOGETHER THE GRIEVANT'S PRIOR DISCIPLINE FOR "TARDINESS", "AWOL" AND "FAILURE" TO MEET ATTENDANCE REQUIREMENTS IN DETERMINING THE DISCIPLINE TO BE METED OUT IN THE CURRENT INSTANCE.

EVEN IF ONE CONSIDERS THESE VIOLATIONS AS DISCRETE ENTITIES, AND THIS ARBITRATOR DOES NOT, THEY NONETHELESS ALL DERIVE FROM THE SAME STANDARD, TO WIT, THAT "EMPLOYEES ARE REQUIRED TO BE REGULAR IN ATTENDANCE (SECTION 666.81 ELM)

A REPEATED AND CONSISTENT FAILURE TO BE REGULAR IN ATTENDANCE MUST, DERIVATIVELY BE REGARDED AS A FAILURE TO MEET THE REQUIREMENTS OF A POSTAL POSITION AND ULTIMATELY, OF CONTINUED POSTAL EMPLOYMENT."

(Weisenfeld, Arbitrator)

Even with all that it is still my position as Local President that these types of cases should be fought all the way. I am not one to support a lazy person or one who refuses to come to work for no legitimate reason.

But, there are many deserving employees who through no fault of their own are faced with an attendance problem. Our job is to help those deserving employees.

## **THE POSTAL SERVICE POSITION**

Management claims that when a worker does not come to work, he/she delays the delivery of mail. The bosses claim that work schedules have to be changed around and even overtime has to be used to get the work done.

To an arbitrator who relies on his mail to get paid this makes sense and presents a believable situation. The arbitrator usually has no real idea of what it is to be a postal worker and the pressure of the job as well as the constant harassment of management.

Many times it is management that creates an "I don't care" attitude in some employees. It is management that makes some people HATE to come to work.

Even so, many arbitrators buy management's theory and uphold employee terminations.

**"TO ACCOMPLISH ITS MISSION, THE SERVICE REQUIRES A RELIABLE AND DEPENDABLE WORKFORCE. THE GRIEVANT HAS REPEATEDLY DEMONSTRATED HIS UNRELIABILITY AND INDEPENDABILITY WITH REGARD TO HIS ATTENDANCE DESPITE PROPER NOTICE THAT HIS ATTENDANCE IRREGULARITIES COULD EVENTUALLY RESULT IN TERMINATION.**

**THE GRIEVANT FAILED TO HEED THESE WARNINGS AND HIS FAILING MANIFESTED ITSELF IN AN ATTENDANCE RECORD WHICH NO EMPLOYER COULD OR SHOULD TOLERATE INDEFINITELY."**

(Weisenfeld, Arbitrator)

So many people have lost their jobs because they wouldn't come to work in a regular manner. One person jokingly claimed — "Well, if I miss work every Tuesday for six months that is pretty regular."

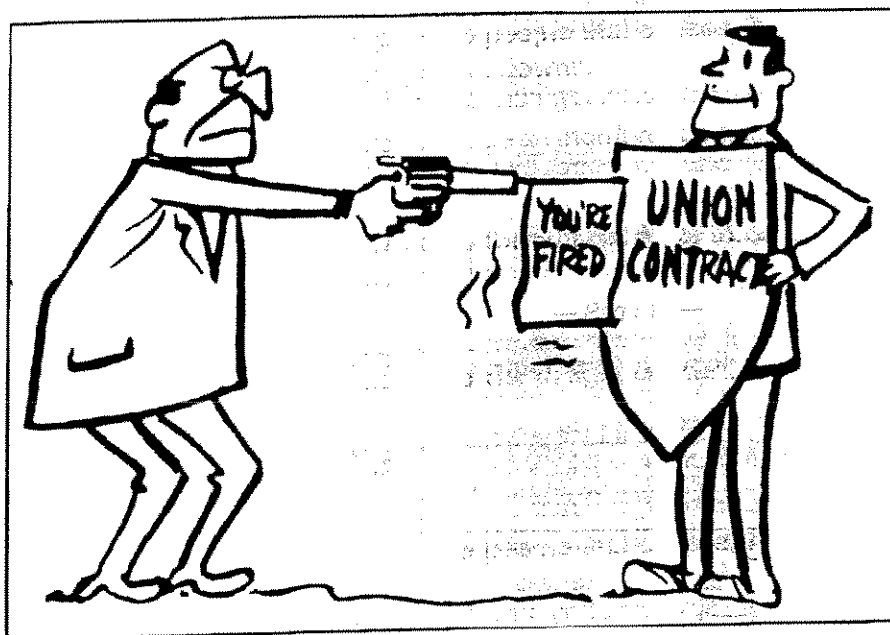
Obviously, that joker missed the whole point. Guess what? — HE WAS FIRED!

## **Attendance And The Contract**

Under Article 16 of the National Agreement no employee may be disciplined or discharged except for JUST CAUSE such as . . . "FAILURE TO PERFORM WORK AS REQUESTED.

You are REQUIRED to be regular in attendance. Failure to do so is failure to perform work as requested.

But, the contract also provides that discipline MUST BE CORRECTIVE in nature and NOT PUNITIVE.



Also, there are various degrees of discipline 1) Discussion 2) Letter of Warning, 3) Suspensions and 3) Removals.

In order to be suspended or fired the action must be reviewed and concurred with by a higher official other than your immediate supervisor.

A prior discipline action cannot be used against you if there has been no disciplinary action initiated against you for a period of two year.

## **ANALYZING JUST CAUSE FOR DISCIPLINE**

Since the critical factor of discipline is that it is supposed to correct and not punish, management should show good faith by first trying to correct a problem on attendance before going into the formal stages.

There are basically seven tests for determining if discipline was issued for "just cause".

Let's take a look at them:

- 1) Did Postal Management give the worker knowledge or a warning that an employee's conduct could lead to possible discipline? (This could be a posted notice or order in the order book.)
- 2) Was management's rule on attendance reasonable and related to the efficient operation of Postal business?
- 3) Did Postal management make a real effort to find out if the employee did, in fact, commit the offense or violate a rule BEFORE the discipline is issued?
- 4) Was there a fair and objective investigation by management?
- 5) Was there substantial evidence pointing to the employee's guilt as charged during the investigation?
- 6) Did Postal management apply its attendance rules or orders even handedly and without discrimination? Have others been guilty of the same charges and not received discipline?
- 7) Was the penalty imposed by Postal Management reasonable as relates to: a) seriousness of proven offense by the employee's past record with the Post Service?

## **DEGREES OF DISCIPLINE**

A lot of workers are under the impression that they cannot get fired because they substantiate their absences. This is simply not true!

However, attendance is not normally a "sudden death" violation like stealing or fighting. In most cases, attendance irregularities can be identified early enough to call for "progressive discipline."

What is progressive discipline? Well, the theory basically is that before the supreme penalty of dismissal can be imposed management must have taken several steps previously to correct the supposed infraction.

Basically, in our post office there are five discipline stages:

- 1) Discussion — this is for minor infractions ( cannot be grieved)
- 2) Letter of Warning — This is formal discipline letter that must identify the deficiency (That can be grieved)
- 3) 7 Day Suspension — This is a disciplinary layoff and will lead to subsequent removal if not corrected or grieved.
- 4) 14 Day Suspension — This is the first step before being removed and must be grieved.
- 5) Removal — This is a discharge preceded by a 30 day notice. There is only 14 days (calendar) to file a grievance.

Normally, a disciplinary track for attendance goes like this —

A discussion, a 7 day suspension, 14 day suspension and guess what — REMOVAL!

Much depends on the postal worker. Usually a period of three months is reasonable in determining improvement as it relates to attendance.

So, if a Letter of Warning is received in March besides immediate improvement there should be steady improvement through June in order to fight any further discipline.

## **Mitigation And Attendance**

There are some things that happen to people that causes them to miss work. We are only human. And life being what it is, has its ups and downs.

The difference is at the post office we face an indifferent management who it seems couldn't care less about what happens to us.

But, as a Union we try to find circumstances that mitigate the violations or supposed infractions of the attendance rules.

Let's take a look at some of them:

## CHILD CARE PROBLEMS

Normally, this is one excuse that will NOT hold too much water. But, there may be times when children are a legitimate reason for missing work as stated in this arbitration case:

"Here we have an employee who has an atrocious record of absences. She has not, apparently, a continuous problem of one sort, but runs the gamut of excuses. Most of these claims relate to her children or to Union affairs. She is NOT employed by the Postal Service to be either (a) a baby sitter or (b) a Union Activist . . ."

"Whatever the merits on other matters, it seems to me that her child being molested must be treated in an entirely separate manner. The Postal Service advocate suggests, post hearing, that no "proof" per se was submitted by the Union. The proof offered was testimony, a letter from the Police and the 3971s prepared by the supervisor.

There had been no question as to the event, thus no necessity to go further was developed. Under such situation, I wouldn't believe a reasonable and prudent person would be able to work.

## DOMESTIC PROBLEMS

Again, home problems are excuses often used for not coming to work. Everyone has home problems from time to time and most times this excuse won't do.

But, as in everything, there are circumstances wherein domestic reasons can prevail as an excuse. This is where the individual welfare of the worker comes into play.

Let's examine one such arbitration case decided by Arbitrator McConnell.

"This is a grievance which appeals to one's sympathy. It concerns a young woman with more than the usual amount of domestic difficulty who has been sheltered by a very much concerned mother and who has not yet developed the sense of responsibility necessary for work performance.

Her past record is well documented and uncontested. Seven disciplinary actions within





a two year period, mostly for offenses of a similar nature to those giving rise to the removal, cannot be lightly brushed aside.

They give evidence of the Postal Service attempt, through progressive discipline, to point out to the grievant how to fill the requirements of her job satisfactorily . . .

Because of the grievant's youth and inexperience in the demands of an employment situation I am persuaded to follow the pattern provided by the Search award and direct the re-employment of the grievant without back pay.

### **ALCOHOLISM**

There are those cases wherein a defense of alcohol and drug addiction is raised. Many times a true alcoholic will not want to admit the problem. Other times an employee may be quick to claim this defense after the fact.



Many times arbitrators are reluctant to bring back a worker who has claimed addiction as a defense. Some will, while others won't, give it a second thought.

Let's look as one case where there was a final opportunity.

"This case is distinguishable from the Arbitrator Gamser decision. In Latter case, the grievant DID NOT join AA until after his discharge.

In the instant case the grievant had himself admitted to a detoxification unit two months PRIOR to the effective date of discharges. Further, the record suggests that the grievant is leaving New Haven for Tennessee . . . sought to get on top of his problem before the Removal notice was issued.

Under the circumstances described herein I am of the opinion that the grievant is entitled to an opportunity to prove he can again become a productive postal employee."

(Arbitrator Weisenfeld)

### **ON THE JOB INJURY**

Many times supervisors will charge employees with time they took off because of an injury that happened at work.

Of course, when an employee is injured at work the best thing they can and must do is report it so it can be on record in case a worker has to take off.

There is no question in anyone's mind that time off from work because of a legitimate on the job injury should not be used in order to punish a worker.

This reasonable rule of thumb is backed up by Arbitrator P. Williams

"... It necessarily follows to be said that, it is INAPPROPRIATE for the Employer to consider an employee as being AWOL and subject to disciplinary action when he has filed an OWCP claim wherein he charges he is totally disabled for either a stated period of time or permanently."

## **IMPROVEMENT TIME, PERFECT ATTENDANCE**

A lot of times we in the Union will argue that management has not given a worker enough time to show improvement or has not considered the time that has elapsed since the previous action.

Many times we fight with management because they expect a worker to be perfect and there simply is no such animal in the post office (although at times we like to consider ourselves perfect.)

Our arguments on these types of situations are best summed up by the following three arbitrators

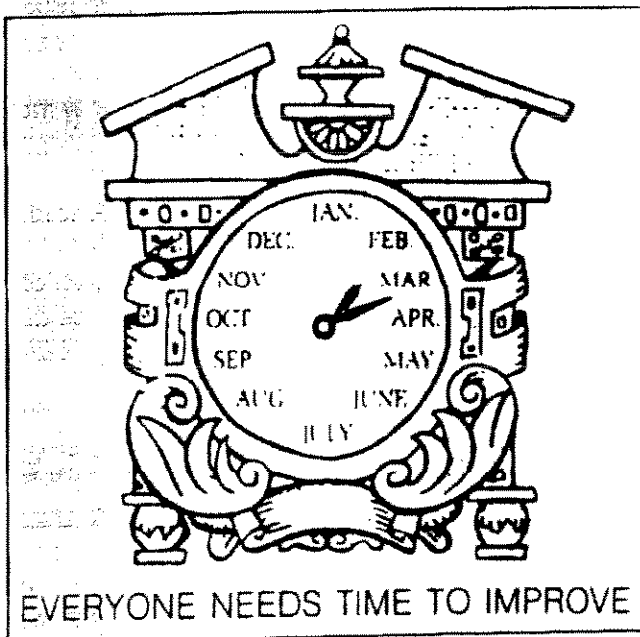
"Perfection in attendance has always been recognized as a goal to be striven for. But, lack of perfection is not recognized as grounds for discharge. It is an impossible expectation that an ordinary mortal will attain perfection in anything. If lack of perfection should reach a certain point, of course, it might be a basis for discipline. But lack of perfection is not grounds for discharge which the National Agreement nor the Handbooks and Manuals require.

(Arbitrator Gerald Cohen)

"After reviewing the evidence, I conclude that I agree with the grievant. To permit 19 months to pass without any discipline action being taken for repeated poor attendance is to lull an employee into a false sense of security. I am not convinced that the employee was aware of the fact that her job was in jeopardy.

(Arbitrator G. Cohen)

"Nowhere in the disciplinary letter, or in the evidence in general is the Grievant specifically told that approved leaves are entered against her record. Her supervisor's



testimony is far from clear that the Grievant was specifically told that authorized illness could be the basis of a final discharge. The problem is **not** one of condonation, but of notice. The purpose of corrective discipline is to apply progressively more **severe** penalties as the need indicates to be necessary to bring an individual to a realization of existing jeopardy from a course of conduct . . . It is noteworthy that the Grievant did show improvement, far from adequate performance, but improvement."

(Arbitrator H. Casselman)

"The stipulation required a continued improvement in attendance, as well as a 'substantial improvement.' The Grievant has **NOT** fully satisfied this latter requirement. The Grievant's demonstrated improvement in his attendance record destroys any justification for his removal.

Not only did he achieve the level of improvement required by the stipulation, he also achieved a sick leave balance and retained such a balance at the time of his removal . . .

(Arbitrator F. Holly)

Well, so far we have examined a partial list of attendance rules, some defenses and taken a look at the contract, as well as, attendance arbitration decisions.

I sincerely hope that you will read this and understand the scope of the problem when it comes to dealing with attendance cases.

As I stated before, I believe we should fight attendance cases all the way, if necessary, simply to protect our interests as a union and to give our members a fighting change.

Not everyone agrees with this policy and there are some who will even claim I am wasting my time in preparing this booklet.

The fast is, no time is wasted if we educate even one member on this subject.

## ***THE ABSENCE RUT***

The vast majority of postal workers come to work and on time. But, there is a small percentage that find themselves at the bottom of one heck of an attendance rut.

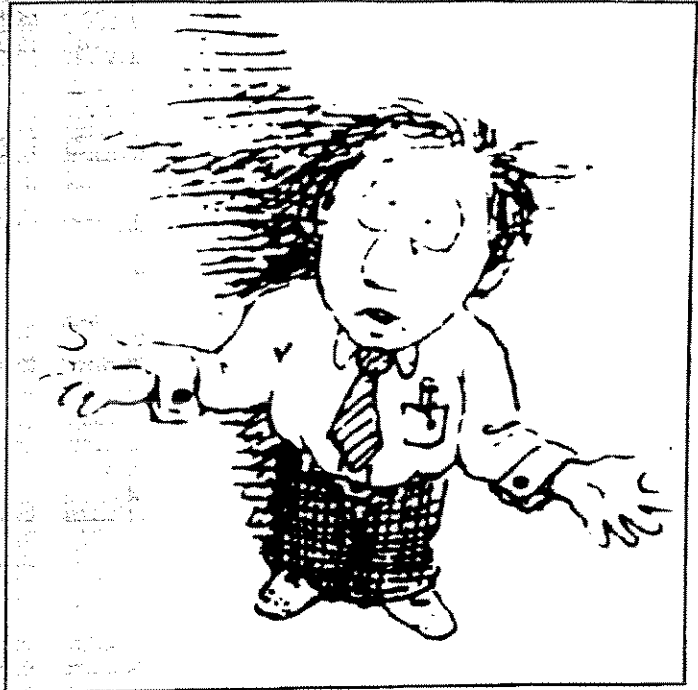
We can sum up these employees into three basic types:

1) **THE MONDAY MORNING MISSER** - this employee takes off on the day(s) before or the day(s) after rest days. This allows for a mini-vacation of sorts, but actually it creates a pattern that can easily be traced and used against the employee as evidence of unsatisfactory attendance.

2) **THE PARTY PATSY** — this employee takes off on the day after pay day. Also there is a pattern of weekend absences. Others request to be excused to attend weddings, reunions or other family functions and when request is denied they call in sick.

Some workers even party with the supervisors who turn state's evidence against the worker and forget about the "good times" they had at the party.

3) THE SICK SLICKSTER — this employee calls in sick when not actually ill. It's easy. Just call in! At first it looks like there is no sweat. Then one heck of a game starts up. Medical slips are easy enough to get to cover the absences. Soon it's habit forming.



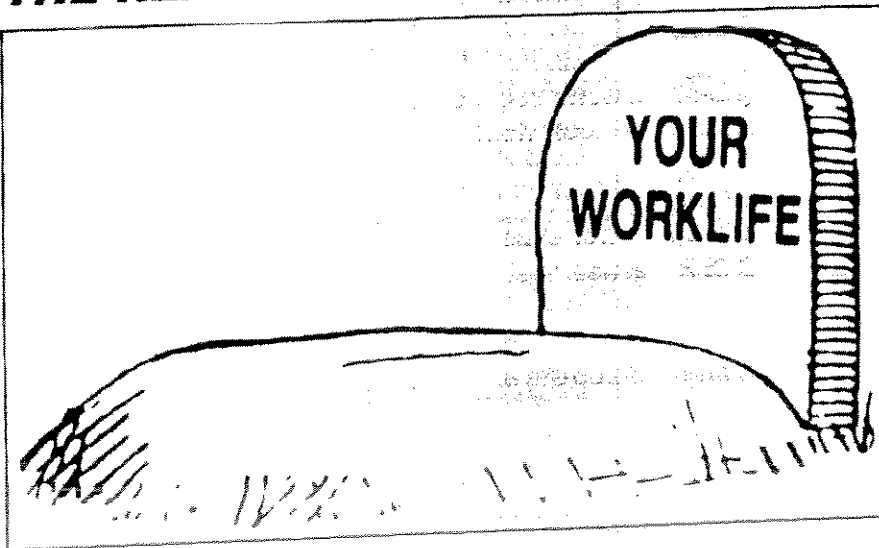
Then comes the first discipline. A stupid letter of warning. "Oh well, it's just a piece of paper." Even a 7-day suspension won't be that bad; the time off is tempting. "Maybe I'll fight this, we'll see."

But, then the worker really gets ill. The flu bug hits and the employee is forced to take five days off. Then a family emergency and a little bit of car trouble sneaks up and before you know it a 14-day suspension is issued. This one hurts. It's a whole pay check! Quick grab the Union Rep. — get to reduced to two days.

A couple of weeks pass and a tooth starts acting up. Then that bothersome knee finally gets scheduled for surgery. But the babysitter has to leave town for a week or so. More time off. This time it is all legitimate. But, too late the dirty supervisor issues a REMOVAL. Panic sets in and depression. More time off.

All the previous absences and discipline are counted and used against the worker. NO ONE SEEMS TO CARE!

### THE REAL VICTIMS



The victims of attendance abuse appear to be management, the absent employee and their families. But actually it's the dedicated employee who suffers most.

The average worker comes to work and is proud to have a good sick and annual leave to their credit. It's a good feeling.

But even this unsung hero of

the attendance war is human. Humans get sick! It is such an ugly feeling to a worker with several hundred hours of sick leave credit to get an AWOL for a 1-day absence in a 6-month period.

It's insulting to the dedicated worker to have years of good attendance ignored. It's degrading to have to go to the doctor to get a slip so that the indifferent supervisor will take off the AWOL.

Many times the dedicated worker remains a silent victim. Choosing not to make waves. There is NO challenge to the biggest attendance abuser of all — **POSTAL MANAGEMENT.**

Management goes against their own rules by lumping all employees into one attendance ball regardless of the record and circumstances. Management claims their production is down so they come up with all kinds of programs to reduce leave usage.

Long time workers are denied vacations. Harassment increases causing stress which causes absences. It turns into a vicious circle. Good medical slips are turned down. Automatic AWOL charges are issued.

Discipline is given out like hot cakes. Production is down. Morale is down. Absence rates are up and millions are spent on the attendance war.

The casualties increase daily. It's the silent ones that are sent to the slaughter first. By the time these silent victims get the nerve to complain it's all over but the burial.

A work life is a terrible thing to lose. Losing your job not only affects production it can kill your home life. Bills pile up, arguments starts, kids go hungry, state aid is denied, unemployment benefits are denied. Friends turn away and a miserable life continues.  
**WHAT TO DO?**

### **FIGHTING BACK**

The situation may appear hopeless, but in reality much can be done to turn the tide in favor of postal workers.

To begin with, the best defense is to be regular in attendance and avoid unscheduled absences.

But next to that defense is the art of "FIGHTING BACK". I say it's an art because there is a skill that is necessary to fight back.

The skill is called — **DETERMINATION!** Only by determining that you will do something about the situation will we ever begin to turn the attendance war in our favor.



It doesn't take much to develop this skill. You have a powerful ally in this fight — YOUR UNION. But we can't do it without you. The Union can help you in your determination to clear your record, remove an AWOL, challenge unfair discipline and gain dignity at work.

But you must have the will power to fight back and to win. Let's take a look at some of the things you can do.

## Protect Your Job

Let's start off from the gate. COME TO WORK! Easy enough — right? WRONG. From tie to time you will get sick or be forced to take time off. There are a few things you must do if you need to be off.

### **CALL IN**

As soon as possible call in to your designated work center or Data Site Office. Always get the name of the person who you talked to. Write it down. You should keep a running calendar of your work hours and time off. Keep a log. You would be surprised how much this will help in a hearing.

### **1-3 DAYS OFF**

For periods of three days or less, the supervisor may accept your verbal statement explaining the absence. The only reason medical slip would be required from you is if you are on Restricted Sick Leave or to protect the interests of the Postal Service.

If your attendance is pretty good (You know when it is), then a one or two-day absence should not require a medical substantiation. But just because you shouldn't have to substantiate a 1/2 day absence doesn't mean you ignore the demand for medical slip. YOU HAVE TO FIGHT THIS DEMAND! Call your shop steward and file that grievance. If necessary to file a discrimination complaint. Your shop steward will help you file the complaints.

### **PS 3971**

The document is most important. It actually states that you can be imprisoned and/or fined for giving false information on the 3971. Imagine that, you could go to jail for five years and be fined \$10,000 or both. It's nothing to take lightly.

When you report back to duty, there should already be a PS 3971 filled out. Check every box to make sure it is accurate. Check especially Type of Absence. Write down the reasons you were off in the remarks column. This will assist you in remembering your absences if needed at a hearing. Make sure you sign and DATE the signature block. If your request is denied, there must be a reason stated by the supervisor. DO NOT FALSIFY A 3971 OR MEDICAL SLIP. IT IS NOT WORTH IT! IF YOUR SUPERVISOR HAS MESSED UP THE FORM, FILE THAT GRIEVANCE!

### **MEDICAL SLIP DEMAND**

For absences in excess of three days, employees ARE REQUIRED to submit medical or other documentation that is acceptable that shows you could not work.

If you are out of work over three days, you have no choice. You must provide some sort of

"substantiation" to cover your absences. For sick leave a doctor's certificate that states the period of absence due to sickness and enough information that shows you were or will be unable to perform your normal duties.

Statements that say "under the care" or "received treatment" are not acceptable to management unless it says what you were treated for. The Union doesn't believe that medical information should be disclosed — but that is another story.

If your supervisor REFUSES TO ACCEPT your medical slip, file a grievance immediately and also a discrimination complaint if necessary. **DON'T LET THEM PLAY WITH YOUR WORKLIFE!**

## **AWOL**

This is a very serious charge. A supervisor has said you are not getting any leave and also the absence is disapproved. The supervisor must write the reason on the 3971. "Scheduled and needed" is not a valid reason to disapprove your leave request.

**NO WAY SHOULD YOU LET EVEN A.1 UNIT OF AWOL STAY ON YOUR RECORD WITHOUT FIGHTING TO TAKE IT OFF.**

**AUTOMATIC AWOL IS PROHIBITED. INDIVIDUAL MERIT MUST BE CONSIDERED AND IT MUST BE BASED ON THE OVERALL ATTENDANCE RECORD.**

**FIGHT BACK! SEE YOUR STEWARD AND FILE THAT GRIEVANCE AND COMPLAINT RIGHT AWAY!**

## **RESTRICTED SICK LEAVE**

There is a list called the Restricted Sick Leave List which means that if your name is placed on this list ANY sick leave requested must be supported by a medical substantiation.

In order to get on this list you MUST be given written notice. Normally it takes nine months to get on R.S.L. First, if your sick leave usage is unsatisfactory over a three month period, there MUST be a verbal discussion between you and your supervisor. If after another three months there is no improvement there is supposed to be yet another discussion. If after another three months there is no improvement, you can be placed on R.S.L.

This is the normal manner of getting R.S.L. But if there is evidence of abuse of sick leave your name can be placed on it much sooner. Evidence of abuse is a strong language and hard to prove.

If placed on Restricted Sick Leave YOU MUST GRIEVE IT IMMEDIATELY. If there have not been two previous discussions and you do not abuse your sick leave, YOU MUST grieve the placement on R.S.L. (There is no such thing as Restricted Annual Leave.

## **STEP INCREASE DENIAL**

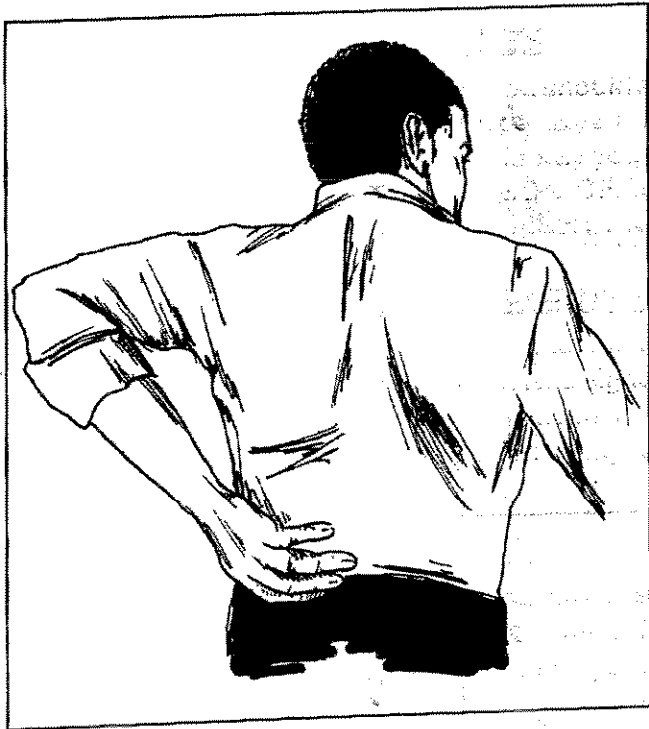
For about 8-9 years of postal employment you should continue to get periodic step increases. Sometimes your supervisor will try to deny your Step increase or defer it for seven pay-periods. This deferment cannot be based solely on attendance. If this is the case YOU MUST FILE A GRIEVANCE AND COMPLAINT immediately upon getting written notice of denial.

## **EXTENDED ABSENCES**

If you will be off for extended absence you should substantiate your absence no more frequently than one per pay period. After the first three days it is suggested that you mail, by certified mail, the medical slip to your Unit Supervisor. This way you have proof you send the documents. **IF YOU GET ANY DISCIPLINE CONTACT, THE UNION OFFICE OR YOUR SHOP STEWARD DO NOT WAIT UNTIL YOU COME BACK TO WORK! FIGHT RIGHT AWAY!**

## **DOCTOR'S APPOINTMENTS**

Usually an employee knows ahead of time when a dental or medical appointment is scheduled. Normally such an appointment does not take eight hours, but it could. The best thing to do is to make the request in writing (by using 3971) in advance. If denied, a grievance must be filed immediately. If granted it should not be used against you in any future discipline.



## **DISCIPLINE ACTION**

No matter what, any Letter of Warning, Suspension or Removal action must be grieved. **DO NOT ACCEPT IT WITHOUT AT LEAST TRYING TO GET IT REDUCED, HELD IN ABEYANCE OR TAKEN OFF YOUR RECORD COMPLETELY.**

## **DOCUMENT COPIES**

The supervisor must give you a copy of each PS 3971 that is submitted and acted upon. **KEEP YOUR COPIES!** If management does not give you copies, file a grievance right away! Remember about the fine and imprisonment. Management has their records, you have to keep yours.

Also, **ALWAYS** keep copies of medical slips. Things have a way of disappearing in the hands of a supervisor.

## **MANAGEMENT NOTICES**

Please do not believe that because management has mailed you a notice that is not certified you can claim you did not get it. Whenever management mails you an official communication or discipline notice you can bet that they had the letter carrier sign he/she delivered the letter to your address.

The only defense would be if you moved and management had your new address and the notice was mailed to the wrong place. You must be able to prove this.

Any notice that you receive of an official nature dealing with attendance can be grieved to have it removed from your records. **DO IT!**



## **TARDINESS**

The regulations allow you to make up hours if late. Of course, it is left up to the supervisor to grant it. But it is not to be unreasonably denied or discriminatorily granted. The request must be in writing on PS 3971 or PS-13. If denied unreasonably, it has to be immediately! Don't wait until the end of the day. If the supervisor makes you late by hiding your time card, grieve it too.

## **CLOCK RINGS**

There is no such thing as five minutes to be late. The leeway rule is used to eliminate adjustments necessary because of congestion at the time clocks. It is used for a whole eight hour period. Reporting late from lunch can be a basis for discipline. If you get an AWOL for later reporting or undertime or even discipline for creeping overtime, you must grieve it and fight to take it off your record.



**TIME WAITS  
FOR NO ONE  
YOU ONLY  
HAVE 14  
CALENDAR  
DAYS TO  
GRIEVE AND  
FIGHT BACK**

