AMERICAN POSTAL WORKERS UNION 19<sup>th</sup> BIENNIAL NATIONAL CONVENTION LAS VEGAS, NEVEDA AUGUST 23, 2008

## BASIC SHOP STEWARD FOR MUS

BRUCE BAILEY, NBA WESTERN REGION, MVS DIVISION 150 E. COLORADO BLVD.,SUITE 208 PASADENA, CA 91105 (626)585-1404

WILLIAM BURRUS PRESIDENT OMAR GONZALEZ WESTERN REGION COORDINATOR ROBERT C.RITCHARD DIRECTOR, MVS MIKE FOSTER ASSISTANT DIRECTOR MVS



The following are some of the mistakes I have found and made working with the grievance procedure. Management is also looking for any reason to deny our grievances. While I'm sure this is not a complete list, the ideas should help you be a better grievance handler.

## ARTICLE 15 GRIEVANCE-ARBITRATION PROCEDURE

#### **Section 1. Definition**

A grievance is defined as a dispute, difference, disagreement or complaint between the parties related to wages, hours, and conditions of employment. A grievance shall include, but is not limited to, the complaint of an employee or of the Union which involves the interpretation, application of, or compliance with the provisions of this Agreement or any local Memorandum of Understanding not in conflict with this Agreement.

ARTICLE 17 REPRESENTATION Section 1. Stewards Stewards may be designated for the purpose of investigating, presenting and adjusting grievances.

#### Section 2. Appointment of Stewards

**A.** The Union will certify to the Employer in writing a steward or stewards and alternates in accordance with the following general guidelines. Where more than one steward is appointed, one shall be designated chief steward. The selection and appointment of stewards or chief stewards is the sole and exclusive function of the Union. Stewards will be certified to represent employees in specific work location(s) on their tour; provided no more than one steward may be certified to represent employees in a particular work location(s). The number of stewards certified shall not exceed, but may be less than, the number provided by the formula hereinafter set forth.

The local president must provide a list of all shop stewards and alternates to the Installation Head in accordance with Article 17.

All local officers who serve as shop stewards "must" be certified and included on the list.

This includes the local president.

Management will claim a procedural error if the steward is not properly certified and deny the grievance.

A class action grievance involves more than one employee and must be initiated by the union. The steward should list the names of the affected employees. If the remedy is not equal or differs from employee to employee, clearly identify the remedy each employee is entitled to.

Under the language of the Collective Bargaining Agreement, **Article 15 Section 2 Step 1(a)**, management can designate an *appropriate employer representative* to discuss a *class action* grievance at step 1.

Develop a procedure, at labor management meetings, to handle Class Action Grievances. The union should insist that management identify, in writing, those representatives designated to handle those grievances.

If they refuse to identify the appropriate representatives, the steward should not miss the time limits and request a Step 1 meeting with the immediate supervisor.

Avoid this remedy "pay the appropriate employees, at the appropriate rate, for the appropriate amount of hours due."

Remember to list the affected employees and identify their entitlements individually.

#### EVIDENCE = PROOF = SUCCESS

## WHO NEEDS IT?

It is needed in order for the Union to prevail in arbitration.

The grievance must be built with facts and documentation!

YOU MUST PROVE THE CASE!

Opinion means nothing without proof!!!

It is needed to determine if a grievance exists

If there is a grievance, documentation is used to fully develop the case

Without it we can not prove our grievance

The better the documentation the faster the grievance is resolved

## PROPER DOCUMENTATION OF GRIEVANCES

In The Basic Shop Steward Training Manual you will find listed various contract violations with ideas for documentation which must be included when filing those types of grievances. You will also find a copy of the Request for Information form.

## **REQUEST FOR INFORMATION**

Grievant/Union		Nature of Allegation				
			Date of Request			
Го:		Title:				
From:		Title:				
No request that the fe	llowing desuments and					
properly identify wheth	er or not a grievance de	oes exist and, i				
properly identify wheth 1 2	er or not a grievance de	oes exist and, i	if so, their relevancy to the grievance:			
properly identify wheth           1.           2.           3.	er or not a grievance de	oes exist and, i	if so, their relevancy to the grievance:			
properly identify wheth           1.           2.           3.           4.	er or not a grievance de	oes exist and, i	if so, their relevancy to the grievance:			
properly identify wheth           1.           2.           3.           4.           5.	er or not a grievance de	oes exist and, i	if so, their relevancy to the grievance:			

(date

(signed

Requested information should be provided as soon as you request it, but no later then 24 hours when it is available in your office, 72 hours when it is from outside your office. Management should notify you in writing when they can not provide the requested information within the time limits.

When requested information is not provided, put in 2<sup>nd</sup> request, make sure to note in the grievance what information was not provided. Include all the denied/ignored, Request for Information form(s) in the file. Make sure the RFI is date stamped and/or signed to show management received it.

If all the needed documentation is not in the file, the case can be delayed, denied or resolved for less then requested

DO NOT MISS THE TIME LIMITS WAITING FOR REQUESTED INFORMATION, APPEAL IT TO THE NEXT STEP. NOTE IN THE GRIEVANCE THAT THE INFORMATION WAS REQUESTED BUT NOT PROVIDED.

If we are untimely, the grievance is waved.

Article 15.4 Grievance Procedure-General

B. The failure of the employee or the Union in Step 1, or the Union thereafter to meet the prescribed time limits of the Steps of this procedure, including arbitration, shall be considered as a waiver of the grievance. However, if the Employer fails to raise the issue of timeliness at Step 2, or at the step at which the employee or Union failed to meet the prescribed time limits, whichever is later, such objection to the processing of the grievance is waived.

Article 15.4 Grievance Procedure-General C. Failure by the Employer to schedule a meeting or render a decision in any of the Steps of this procedure/within the time herein provided (including mutually agreed to extension periods) shall be deemed to move the grievance to the next Step of the grievance-arbitration procedure.

STEP 1, I4 days of the date the Union first became aware of (or reasonably should have become aware of) the facts giving rise to the grievance.

Step 1 decision, no later than five (5) days after the filing of the Step 1.

Article 15.2.Step 1

Step 2 appeal, within 10 days after receipt of the supervisors decision.

Step 2 meeting, no later then 7 days following receipt of Step 2 appeal.

Step 2 decision, within 10 days after the Step 2 meeting.

Article 15.2.Step 2

Corrections or additions, within ten (10) days of receipt of the Step 2 decision, The filing of such corrections or additions shall not affect the time limits for appeal to Step 3 or arbitration.

Appeal to Step 3, within 15 days of Step 2 decision.

Direct appeal to Arbitration, within 30 days of Step 2 decision.

Article15.2.Step 2. (g)(h)

## Grievance form not completely filled out.

## ALL GRIEVANCE FORMS MUST BE COMPLETELY FILLED OUT!

## Step 1

Remember that Step 1 of the grievance procedure is the most crucial of all of the stages of the grievance procedure. Be sure to have your contentions clearly identified, documentation to support the case and prepare in advance as to how you will respond to the Step 1 supervisor.

## Step 1

Prepare in advance as to how you will respond to the Step 1 supervisor

Reviewed notes and examined all related data?

Interviewed all witnesses, including supervisors?

Signed and dated statements.

## Step 1

Outlined the grievance presentation? Made copies of all support documentation? Expressed a clear and concise remedy?

## EXTENSIONS

If you or management need an extension make it in writing. Have it signed and dated by both parties and when it ends.

After you receive a Step 1 decision, the extension should be from the Step 2 designee.

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FROM: LOCAL UNION (NAN	IE OF)		ADDR	tESS			CITY		STATE	[	ZIP	
3					ARFA	conr	PHONE (OFFICI		405	A CODE	BUOM	E (OTHER)
STEP 2 AUTHORIZED UN	ION REP. (NAME AP	ND TITLE)			AREA	CODE	PHONE (OFFICE	2	ARE	A CODE	PHON	E (OTHER)
LOCAL UNION PRESIDE	NT				AREA	CODE	PHONE (OFFIC	0	ARE	A CODE	PHONE	E (OTHER)
WHERE	- WHEN	STE	P 1	ME	ETIN	IG &	DECIS	101	1	MET	WITH	
UNIT/SEC/BR/STA/OFC		DATE/TIME		USPS R	EP - SUPR			GRIEV	ANT AND	VOR STEV	NARD	
STEP 1 DECISION BY (NA	ME AND TITLE)					DATE AND 1	TIME	1	INITIALS			INITIALING ONLY
,												VERIFIES DATE OF DECISIO
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SIGNATURE AND TITLE OF AUTHORIZED UNION REP

**Line 1** - Nature of discipline or contract issue. Craft. Include the date on which the appeal was made and the union local grievance number. USPS grievance number if known.

**Line 2** - Name of USPS official to whom the appeal was made. List the name and telephone number of installation.

Line 3 - Local Union's business address.

**Line 4** -Name of APWU Representative authorized to discuss Step 2 and the telephone numbers where that individual may be reached.

**Line 5** - Name of Local Union President and his or her telephone numbers.

**Line 6** – Unit/Installation where Step 1 was heard; date/time discussion took place; name of supervisor who discussed the grievance at Step 1 and the name of grievant and/or steward present at the discussion.

**Line 7** - Name of supervisor who made the decision; date/time decision was made; initials of supervisor making the decision attesting to date/time of decision.

**Line 8** - Grievant (or Union if class action); list the address and telephone number.

**Line 9** – Employee ID number or Social Security number of grievant; seniority date; service & craft; status (FT,PTF); level; step; duty hours and off days.

**Line 10** – Job#/Pay location; Name and zip code of installation where incident occurred; whether or not employee has lifetime job security; and whether or not employee is classified as a preference eligible veteran.

**Line 11** - Cite CBA article violated. LMOU, Handbooks/Manuals, L/M minutes, etc.

**Line 12** - Give a detail explanation of what happened, List of attached exhibits

**Line 13** - What the Union feels is required to resolve the grievance. In a discipline case ,request that "the grievant be made whole" and the discipline be removed from all records and files.


#### **Detailed statement of facts**

Have you completed the following? Answered all six questions: Who, What, Where, When, Why and How.

Who was involved?
What happened?
Where did the incident or violation occur?



# When did the incident or violation occur?Why is it a violation of the contract (article violated)?How can the grievance be resolved (remedy)?

## Does not show a violation of the CBA

The burden of proof falls on the Union in contract cases to show that the CBA was violated.

While in discipline cases the burden shifts, and management must show a violation of the CBA.

#### CBA Articles not cited

It is not enough just to list the article, you must show how it relates to the violation. I.e.: don't just list Article 19, list which handbook and section. The employer violated Article... When they... If you can't say that you may not

have a grievance.

## Step 3 and Direct Appeal The major mistake for Step 3 and direct appeals is they are not dated. There is a place for the date in the middle just below the header, **"THE ABOVE GRIEVANCE IS BEING** APPEALED TO STEP 3/DATE This is left blank a lot of the time, which allows management to question the date of the Step 3 appeal or Direct Appeal.

## Step 3 and Direct Appeal Forms

AMERICAN POSTAL WORKERS UNION, AFL-CIO		American Postal Workers Union	, AFL-CIO	STEP 2 Appeal To Arbitration Grievance Form
GREVARE - PERION OR UNDU PERON LINE 8     INORK LOCATION CITY IND 2P CODE (FROM Line 10)     IEGOVER     INORK LOCATION CITY IND 2P CODE (FROM Line 10)     IEGOVER     INORK LOCATION CITY IND 2P CODE (FROM Line 10)     IEGOVER     IEGOVER	-	GRIEVANT PERSON OR UNION WORK LOCATION CITY, STATE, DISCIPLINE (NATURE OF) OR CONTRACT (1851/E) CRAT		USPS GRIEVANCE #
THE ABOVE GRIEVANCE IS BEING APPEALED TO STEP 3/DATE		Distruite (MTURE OF) OR CONTRACT (BSUE)	DATE OF STEP 2	APWU UKIEVANCE II
Any appeal from an adverse decision in Step 2 shall be in writing to the Regional Director for Employee and Labor Relations, with a copy to the Employer's Step 2 Representative, and sha specify the reasons for the appeal. (Within fifteen (15) days)		то: Г	DATE:	
The Appeal is in accordance with XV Grievance Arbitration Procedures Sec. 2 Step 2 (h) and Step 3 (a) for the following reasons:	//\	L		
		Please be advised that pursuant to Article 15, Section 2 Step 2(h) of t appealing the above-referenced grievance to arbitration. This appeal written Step 2 decision and the union's corrections and additions to the	includes a copy of the Step	2 appeal form, the employer's
		The Postal Service refused or failed to schedule a St the prescribed time limits and to provide the union a all relevant facts, (2) the contractual provisions invo grievance.	full statement of the Emplo	yer's understanding of (1)
THIS IS A SAMPLE FORM. PLEASE CONSULT YOUR		LOCAL UNION (NAME OF) ADDRESS	Спту	State Zip
NATIONAL BUSINESS AGENT FOR THE APPROPRIATE		SUBMIT UNION'S REGIONAL COPY WITH FILE TO:	COPY LOCAL FI	LE COPY USPS STEP 2 DESIGNEE
ADDRESS TO SEND STEP 3 APPEALS.		NATIONAL BUSINESS AGENT	Sincerely,	COPY - APWU COORDINATOR
		THIS IS A SAMPLE FORM. PLEASE CONSULT YOUR NATIONAL BUSINESS AGENT		
		FOR THE APPROPRIATE ADDRESS TO	Authorized Union Rep.	
and we have attached the Step 2 appeal grievance form, the employers written Step 2 decision and our corrections and additions to the Step 2 decision if we submitted same to employer's Step 2 representative.		SEND STEP 2 APPEALS TO ARBITRATION.	As Authorized by Pre	esident William Burrus
FRDM - LOCAL UNION (NAME OF) ADDRESS CITY STATE ZIP		Please ✓ check the Expedited or Regular Arbitration Panel box based on type of grieve arbitration pursuant to Step 2 (h) of the National Agreement.	ances listed below that may be appe	taled from Step 2 to
COPY LOCAL FILE COPY USPS STEP 2 DESIGNEE		Expedited Arbitration Panel Issues:	Regular Arbitration Panel Issues:	
SUBMIT UNION'S REGIONAL COPY WITH FILE TO (or as instructed)           NATIONAL BUSINESS AGENT         Sincerely.		AWOL     Letters of Warning     Suspensions of 14 Days or Less     Letter of Demand of Less Than \$2,000     Withholding of Step Increases     Article 25-Higher Level Assignments     Letters	Suspensions of More Than 14 Days or Discharge     Indefinite Suspension Crime Situation     Emergency Procedure     LMOU Disputes - Grievances where the primary article(s)     or disput(s) being grieved is over the interpretation,     application of or compliance with the Local	
Authorized Union Rep.		<ul> <li>Individual Grievances for: Overtime, Annual Leave, Sick Leave, Leave Without Pay, Court Leave, Restricted Sick Leave, Requests for Medical Certification, Holiday Scheduling, Clerk Craft Seniority Disputes</li> </ul>	Memorandum of U Safety and Health	

It is imperative that the steward request the appropriate remedy when filing a grievance. The corrective action requested on line 13 of the standard Step 2 Grievance Appeal Form must be very firm, very simple and related to the nature of the grievance.

**NEVER** request that disciplinary action be taken against a supervisor. This request gives management an excuse to deny the grievance since they are not required to discipline supervisors and will not do so at APWU's request.

Avoid this remedy: "pay the appropriate employees, at the appropriate rate, for the appropriate amount of hours due."

When asking for hour for hour compensation you need to show the number of hours used!

Justify it with documentation, clock rings, schedules, etc.

Identify the affected employee(s) entitlements individually.

List the affected employee(s) by name with employee ID #

When this information is provided employees can be paid right from Step 3.

More ideas for proper remedies for various contract violations are in The Basic Shop Steward Training Manual.

#### Tips for the Steward:

The most important rule for processing a grievance beyond Step 2 is to file corrections or additions when the denial does not accurately reflect the contentions made by the Union or is incomplete.

Corrections or additions should be factual, brief and to the point.

One of the most powerful rights the Union has, to rebut management's Step 2 decision denial letter, is through the usage of corrections or additions as outlined in Article 15 Section 2, Step 2: (g), which states:

" If the Union representative believes that the facts or contentions set forth in the decision are incomplete or inaccurate, such representative should, within ten (10) days of receipt of the Step 2 decision, transmit to the Employer's representative a written statement setting forth corrections or additions deemed necessary by the Union. Any such statement must be included in the file as part of the grievance record in the case. The filing of such corrections or additions shall not affect the time limits for appeal to Step 3 or arbitration."

## **<u>CORRECTIONS OR ADDITIONS</u>**

When pointing out inaccuracies in the Step 2 denial, do so by referencing facts.

It is difficult to prove something false without facts and evidence.

List all documents shared and not shared at Step 2, in the corrections or additions.

Normally, management is deficient in one or two main areas when they deny a meritorious grievance. They either slant, twist, or bend the facts of the grievance or fail to report the facts (i.e., leave out the relevant facts which prove the case for the Union).

Remember to include the corrections or additions with either the appeal to Step 3, or the direct appeal to arbitration.

Under the direct appeal from Step 2 to arbitration, the corrections and additions become the final written record of the grievance prior to the arbitration hearing.

## MANAGEMENT'S FAILURE TO MEET

#### Article 15.4.C

C. Failure by the Employer to schedule a meeting or render a decision in any of the Steps of this procedure within the time herein provided (including mutually agreed to extension periods) shall be deemed to move the grievance to the next Step of the grievance-arbitration procedure.

Remember, do not miss the time limits!!!

#### ASK QUESTIONS

#### **GET ANSWERS**

#### INCLUDE IT IN THE FILE

It takes a special type of person to be a good shop steward and with a little patience and a lot of practice you can become one of the best APWU shop stewards.

#### **DOCUMENTATION - EXPLANATION**

#### Don't let this happen to you!

#### This language is from an actual Arbitrator's award

Even if it were to be accepted, the evidence offered by the Union and carefully examined by the Arbitrator, does not meet APWU's contractual burden as confirmed by Arbitrator Das, that the Union must *prove* that Article 7.1.B.1 was somehow violated. As previously noted, the Arbitrator was given a veritable mountain of payroll documents, all supposedly proving that a cadre of Casual employees were (and evidently continue to be) hired in lieu of Career employees on a regular basis at the CBMC. The Arbitrator readily grants that this may, in fact, be true, and moreover if it is, that the Service has violated Article 7.1.B.1. However, that data submitted was not summarized or explained in any manner whatsoever, and as such, is <u>entirely useless</u> to the Arbitrator in determining if Casuals are being hired in lieu of Career employees.\*

\*The Union's "evidence" is akin to a builder dumping a load of bricks on a construction site and saying "this is your house," when no blueprint is provided, nor renderings made. In this case the Arbitrator is asked to sort out the Union's "bricks" and somehow assemble them into an orderly understandable "building." This is not the task of Management's designee at the steps below, nor is it the task of the Arbitrator here. The Union must present its evidence at the steps of the grievance procedure (and before the Arbitrator) in a form conductive to analysis and evaluation. Then and only then is the Arbitrator able to determine whether or not that evidence supports the conclusion the petitioner seeks to have drawn from the material present. In making this observation we are mindful that the United States Supreme Court in Watts v. Indiana, 388 U.S. 49 22 1949) observed that "there comes a point where we should not be ignorant as judges of what we know as men.". However to embrace that notion in this case, and apply it to the raw data the Union has laid before the Arbitrator, would run afoul of the parties self imposed requirement in Article 15 of the National Agreement that "each party's representative shall be responsible for making certain that all relevant facts and contentions have been **developed** and considered" (emphasis supplied).



#### UNITED STATES POSTAL SERVICE 475 L'Enlani Plaza, SW Washington, DC 20290

AUG 4 1981

Mr. Gerald Anderson Executive Aide, Clerk Craft American Postal Workers Union, APL-CIO 817 - 14th Street, NW Washington, DC 20005

AITICLE 17
SECTION
STRUET
Bellesse
COPY OF INFORM

Re: Class Action Valdosta, GA 31601 H8C-3D-C-21690

Dear Mr. Anderson:

On July 7, 1:81, we met with your representative to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented as well as the applicable contractual provisions have been reviewed and given careful consideration.

The question in this grievance is whether or not management violates Article XVII of the National Agreement with regard to how much time is to be allotted for investigating and processing a grievance.

Stewards are entitled to reasonable investigative time on-the-clock for handling grievances and such investigative time could conceivably include the mechanics of copying, logging or converting of information from original documents to graphs, forms, notes, etc.

The problem here appears to be one of application rather than interpretation. We cannot determine at this level whether the amount of time for investigation requested by the steward was unreasonable nor can we determine whether the time allotted by local management was unreasonable.

If you agree with the above, we can remand this case back to Step 3 for final disposition at that level.

#### SPECIAL THANKS TO

Joyce B. Robinson, Director Research and Education Department For her Production of the Basic Shop Stewards Training Manual For detailed information and helpful tips a Copy the manual is on the Training CD