Part I

Investigating and Documenting

Contractual Grievances

CHAPTER 1

THE ISSUE: SUPERVISORS PERFORMING BARGAINING UNIT WORK IN 1.6.A OFFICES

THE DEFINITION

Supervisors in offices with 100 or more bargaining unit employees are prohibited from performing bargaining unit work unless it falls within one of the five (5) enumerated exceptions in Article 1.6.A.

THE ARGUMENT

As a general rule, supervisors in offices with 100 or more bargaining unit employees are prohibited from doing bargaining unit work. If management claims that the work performed falls within one of the enumerated exceptions the burden shifts to the employer to establish the applicability of that exception.

> *Supervisors are prohibited from performing bargaining unit work...*
>
> Article 1.6.A

Generally, all distribution functions and window work are accepted as exclusively bargaining unit work. Other work, such as timekeeping, administrative duties, etc., may not always be exclusively bargaining unit work. However, if we can show that such work has historically been performed by clerks in an office we have a strong case for arguing that it should not be assigned to supervisors.

The parties have agreed that where supervisors perform bargaining unit work in violation of Article 1.6.A, the appropriate remedy is compensation (at the appropriate rate) to the craft employee(s) who would otherwise have performed that work. A cease and desist remedy is usually appropriate only when the supervisor's performance of bargaining unit work was truly unusual and/or the work performed was *de minimis* (or a small or insignificant amount).

THE INTERVIEW(s)

Bargaining Unit Witnesses

- What supervisor was it and exactly what did you observe him doing? For how long and when (dates and times)?

- Did you say anything to the supervisor? If so, what and when?
- Who else was present and may have witnessed this incident? Craft employees? Other supervisors?
- Have you witnessed this supervisor doing similar work in the past? If so, when? Where?
- Would you be willing to write a statement and/or testify at an arbitration if that should be necessary?

Whenever possible get a written and signed statement from each witness. Ask the employee to be as specific as possible about the exact times and specific work that he observed being performed. Be sure that the employee understands that they may someday be called as a witness for arbitration. Remember, in determining credibility the arbitrator often analyses the witnesses ability to recall and testify about "specifics." Could you remember and testify about events that happened over a year ago without contemperaneous notes or statements?

The Supervisor

- Why were you sorting mail on Monday?
- How long did you spend sorting mail on Monday?
- Is it unusual for you to sort mail or do you perform this type of work often?
- Is there anybody who can verify that was how long you were sorting mail?
- Is there anybody who can verify that you have regularly or routinely performed this type of work?
- Who would have done this work if you had not been available to do it?
- Do any other supervisors that you know of also do this type of work?
- If so, when and how often?
- Exactly what type of work were you doing?
- Would you mind giving me a signed statement?

Do not ask the supervisor what exception to Article 1.6 she is relying upon. They will come up

with the excuse that the work fits one of those exceptions quickly enough on their own. Many times the supervisor will deny doing the work for the length of time alleged in your witness statements but will still admit to doing bargaining unit work for a significant period of time. This will leave you with an enviable dilemma - do you insist on pursuing the entire remedy or do you "settle" for what the supervisor admitted to. Do not anticipate many supervisors agreeing to provide statements. However, what does it hurt to ask?

THE DOCUMENTATION

- Witness statements & interviews
- Supervisor statement or interview
- Remember: WHO saw WHAT? WHO said WHAT? WHEN did it happen (date and exact times)? WHERE did it happen?
- Seniority lists, by section and work area, showing available craft employees
- OTDL for purposes of establishing remedy
- Position descriptions of bargaining unit employees
- PS Forms 1723, if 204-B
- Supervisor sign-in sheet or work record showing they were working

THE AGREEMENT

- National Agreement, Article 1.6.A

CHAPTER 2

THE ISSUE: POSTMASTERS OR SUPERVISORS PERFORMING BARGAINING UNIT WORK IN 1.6.B OFFICES

THE DEFINITION

Postmasters and supervisors in offices with fewer than 100 bargaining unit employees are prohibited from performing bargaining unit work unless it falls within one of the five (5) enumerated exceptions in Article 1.6.A or when the duties are specifically included in their position description.

THE ARGUMENT

As a general rule, postmasters and supervisors in offices with less than 100 bargaining unit employees are also prohibited from doing bargaining unit work. This is still the general rule, even though the additional "position description" exception has been added. If management claims that the work performed falls within one of the enumerated exceptions in 1.6.A or is included in the postmaster's or supervisor's position description the burden is on the employer to establish the applicability of that exception.

Generally, all distribution functions and window work are accepted as exclusively bargaining unit work. Other work, such as timekeeping, administrative duties, etc., may not always be exclusively bargaining unit work. However, if we can show that it has historically been performed by clerks in an office we have a strong case for arguing that it should not be shifted to supervisors.

Most often, postmasters or supervisors in a 1.6.B office will assert their position description as the qualifying exception. Most such position descriptions will contain a phrase which goes something like this: "May personally handle window transactions and perform distribution tasks as the workload requires." This is not a *carte blanche* permitting the postmaster to perform as much bargaining unit work as she desires. The work should still only be performed when "the workload requires." In other words, if there is a clerk available, then the clerk should be performing this work. Management may not regularly and routinely schedule themselves to perform bargaining unit work without first giving consideration to the availability of clerks to perform this work.

> *"May personally handle window transactions and perform distributions tasks as the workload requires."* [emphasis added]
>
> Level 18 Postmaster's Job Description

The parties have agreed that where supervisors perform bargaining unit work in violation of Article 1.6.A, the appropriate remedy is compensation (at the appropriate rate) to the craft employee(s) who would otherwise have performed that work. We should argue that the same remedy is appropriate for 1.6.B violations. In fact, most arbitrators do find this to be the appropriate remedy. A cease and desist remedy is usually appropriate only when the supervisor's performance of bargaining unit work was truly unusual and/or the work performed was *de minimis* (e.g., a small or insignificant amount).

THE INTERVIEW(s)

Bargaining Unit Witnesses

- What supervisor was it and exactly what did you observe them doing? For how long and when (dates and times)
- Have you said anything to the supervisor? If so, what and when?
- Who else was present and may have witnessed the postmaster's performance of our work? Craft employees? Other supervisors?
- Have you witnessed this supervisor doing similar work in the past? If so, when? Where?
- Would you be willing to write a statement and/or testify at an arbitration if that should be necessary?
- Has the amount of bargaining unit work performed by the supervisor or postmaster changed significantly? Is she doing more or less of our work?
- Have your hours increased or decreased?
- Were there clerks available to do this work or does the postmaster only do bargaining unit work when no other clerks are available?
- Have past supervisors or postmasters performed similar amounts of bargaining unit work? More work or less work?
- Have you ever been sent home before the distribution is completed and does the postmaster continue distributing mail after you leave?
- Are you window qualified? Scheme qualified? What other training have you had?

- Do you ever serve as a 204-B? If so, when you do, what bargaining work do you do? Are there other clerks available who could have been scheduled to do this work?

Whenever possible get a written and signed statement from each witness. Ask the employee to be as specific as possible about the exact times and specific work that he observed being performed. Be sure that the employee understands that they may someday be called as a witness for arbitration.

The Postmaster or Supervisor

- How much bargaining unit work do you do each day?
- Why is it necessary for you to do this work? What alternatives have you considered?
- Is it appropriate for you to be doing this bargaining unit work? If so, why?
- How much bargaining unit work is expected from you by your office's budget or by your supervisors?
- What are your clerks' schedules?
- What are your window hours?
- Who performs your morning distribution? How often to you assist and for what period of time?
- Are any clerks ever sent home before all of the distribution (first and third class) is completed? How do you find time to get the rest of this finished by yourself?
- Do you ever work the window? If so, how often and for what period of time?
- Why don't you schedule a clerk to do this work?
- Has any management official ever instructed you to perform this work? Do you understand that it is expected that you perform a certain amount of bargaining unit work each day? If so, how much?
- If you didn't do this work, who would do it?
- With all of the bargaining unit work you are doing, how do you possibly find time to do your postmaster duties?

- Have you given any consideration to scheduling a craft employee to do this work? If not, why not?
- Are your craft employees qualified to do this work?
- What provision in your position description includes performance of this work? Can you give me a copy of your position description?
- Would you mind giving me a signed statement?

Do not anticipate many supervisors agreeing to provide statements. However, what does it hurt to ask? You will be able to come up with many more appropriate questions which are particular to each office and fact situation. Take good notes during your interview. Once higher level management gets their hands on their subordinate, their story is going to change dramatically.

THE DOCUMENTATION

- Witness statements & interviews (establish who does what and when - particularly, what hours does the Postmaster work and what time does she spend performing distribution or working the window?)
- Clerk seniority list
- Clerk work schedules (at least 6 months)
- Clock rings, time cards (both sides) or ETC printout (at least 6 months) for all clerks, FTR, PTF, and PTR as well as any casual, TE, loaner or cross craft hours
- Supervisor/Postmaster statements or interviews
- Function 4 / Workload-Work hour analysis
- Work hour budgets (last several years)
- Any written instructions or admissions regarding performance of clerk work
- Supervisor/Postmaster position descriptions
- Bargaining unit employees' position descriptions
- General data sheets for Post Office (at least last 3 years)

- PS Form 3930 [Operational Analysis Form]
- Window hours for Post Office

THE AGREEMENT

- National Agreement, Article 1.6.B
- National Agreement, Article 19
- USPS Handbook, EL-202

CHAPTER 3

THE ISSUE: PAST PRACTICE - FIVE MINUTE WASH UP

THE DEFINITION

A reasonable amount of wash up time is granted to employees who work with dirty or toxic materials through Article 8 of the National Agreement. Article 30 of the National Agreement gives the Union the right to negotiate additional or longer wash-up periods for all employees. Many installations allow some amount of time for a wash up period for their employees. The actual amount of wash-up time is subject to the grievance procedure. Where no specific LMOU provision exists, the past practice in the office determines the length of the wash-up time that is allowed each employee.

THE ARGUMENT

The employees in the installation have enjoyed a five minute wash-up period prior to going to lunch and prior to going home for a long period of time. Management has unilaterally ended the long standing past practice without any discussion with the Union. Article 5 of the National Agreement prohibits the Employer from taking a unilateral action without discussion with the Union.

To establish a past practice, the claimed practice must meet the following conditions: 1) clarity and consistency, 2) longevity and repetition, 3) acceptability, 4) underlying circumstances and 5) mutuality. The fact that supervision allows the employees to leave the work area and take the 5 minutes wash-up time demonstrates the acceptability. It must be clear to all involved where the employees are going five minutes prior to clock out time. In this case, the Union must prove that the past practice of 5 minutes wash-up is a long standing past practice. Senior employees can testify to the fact that the past practice has been in place for a long period of time. Examine your facts carefully. Is everyone taking the five (5) minute wash-up? Are they using the time to wash-up or for other purposes?

5 Elements of a Past Practice

a) clarity and consistency
b) longevity and repetition
c) acceptability
d) underlying circumstances
e) mutuality

THE INTERVIEW(s)

The Postmaster/Supervisor

- How long has management allowed the employees to take a 5 minute wash-up prior to lunch and ending tour?
- Were all employees allowed to take the 5 minute wash-up?
- Did you allow your employees to leave the work room floor and wash up?
- Did you discuss this wash-up time with any of your employees?
- Did you attempt to discipline any of your employees for leaving the work room floor?
- Why did you decide to end the wash up time privilege?
- Who told you to end the 5 minute wash up time?
- How did you end the wash up past practice?
- Did you discuss the action with the Union?
- Were notices posted to advise employees of the change in past practice?
- Did you attempt to eliminate the wash up language in the last local negotiations?
- Did you attempt to change the wash up language in the last local negotiations?
- What is the language regarding wash up in the LMOU?

The Employees

- How long have your worked here?
- How long have you had a 5 minute wash up time?
- How did you become aware of the 5 minute wash up practice?
- Has anyone in management ever mentioned the 5 minute wash up?
- How much time is necessary for wash up in this office?

- What special circumstances make the 5 minute wash up necessary?
- Until recently has anyone in management ever challenged the 5 minute wash up?
- What were you recently told about the wash up period?

THE DOCUMENTATION

- Witness statements or interviews
- Supervisor interviews or statements
- LMOU provisions
- Notes from service talks, etc. where past practice was previously recognized or announcement of change was made
- Labor-Management minutes / written instructions, etc.
- Any management documents expressing a recognition of past practice
- Correspondence regarding management's intent to change practice
- Any proposals from either party during local negotiations on wash up

THE AGREEMENT

- National Agreement, Article 5
- National Agreement, Article 8.9
- National Agreement, Article 30
- LMOU

CHAPTER 4

THE ISSUE: CONTINUOUS USE OF CASUALS

THE DEFINITION

Casual employees are intended to be used as a limited term supplemental workforce. They should not be used on a continuous year-round revolving door basis.

THE ARGUMENT

Article 7, Section 1.B.1 says, "Casual employees are those who may be utilized as a limited term, supplemental work force, but may not be employed in lieu of full or part-time employees." Casuals were intended to be short term employees, hired to fill specific needs, such as a temporary heavy workload or leave period, for a specific, intermittent or limited time period or any other situations where the need for supplemental help occurs. Where the identified need and workload is for other than supplemental or short term employment, the use of career employees is intended. When management uses casuals in the same assignments on a year-round, continuous basis, they are using casuals in lieu of career employees (full or part-time) who should be occupying those assignments.

> *"Casual employees are those who may be utilized as a limited term, supplemental work force, but may not be employed in lieu of full or part-time employees."*
>
> Article 7.1.B.1

THE INTERVIEW(s)

The Supervisor/Manager

- How many casuals are you currently using? How long have you been using casuals?
- What work are the casuals doing?
- How are the casuals scheduled? Isn't it true that this is the same way part-time flexibles would be scheduled?

- Why are these casuals needed?
- Wouldn't it be more efficient to use career employees, such as part-time flexibles or full-time regulars?
- What efforts have you made to get additional career help?
- Who decided that you should use casuals instead of additional career employees?
- Are these casuals pretty much used year round or is there a significant fluctuation in your need for casuals?
- Weren't several career duty assignments in your section recently reverted?

Bargaining Unit Employees

- How long have you worked in this unit?
- Do you know or recognize these casual employees (Jones, Smith, Doe, Erickson, et al)?
- Which ones have you worked with?
- How are they assigned/scheduled? The same as career employees? Differently? In what ways?
- In what ways is the work performed by casuals the same as (different from) the work performed by career employees in this unit?

THE DOCUMENTATION

- Casuals' clock rings or time cards
- Witness statements or interviews
- Work schedules
- PS Forms 50 for each casual
- Management justification/authorization to hire casuals (paperwork usually has been submitted to Personnel

- Supervisor interviews or statements
- Cumulative workhours or overtime report
- Chart or graph casual workhours over at least a 6 month period
- Explanation of operation numbers casuals are clocked into

THE AGREEMENT

- National Agreement, Article 7.1.B.1

CHAPTER 5

THE ISSUE: CASUALS IN LIEU OF PART-TIME FLEXIBLES

THE DEFINITION

Casuals should not be used where part-time flexibles are qualified and available to perform the work at the straight time rate.

THE ARGUMENT

Article 7, Section 1. B.2 obligates the Employer to "make every effort to insure that qualified and available part-time flexible employees are utilized at the straight time rate prior to assigning such work to casuals. It doesn't matter whether the casual worked more or less hours than the part-time flexible in a particular day or in the service week. If, during a particular time frame when management used casuals, one or more part-time flexibles were qualified and available to perform that work at the straight time rate, they must be used.

THE INTERVIEW

- What work did casual employee Smith perform between 1600-2000 on March 3, 1999?
- Isn't part-time flexible Jones qualified to perform that work?
- What hours did part-time flexible Jones work on March 3, 1999?
- Since Jones worked only from 1900-2400, why wasn't she used from 1600-1900 to perform the work performed by Smith?
- What efforts, if any, do you make to schedule part-time flexible employees for up to eight (8) hours before scheduling casuals to work?

THE DOCUMENTATION

- PTFs' Clock Rings / Time Cards

- Casuals' clock rings / time cards
- PS Forms 50 for casuals
- Training records showing qualification
- Work schedules (both PTF's and casuals)
- 3971's (PTFs' request to be excused)
- Witness statements or interviews
- Supervisor statements or interviews
- Graph or chart PTF and casual workhours showing PTF availability at straight time when casuals worked
- PTF seniority list
- Explanation of operation number reflected in clock rings
- Training records or other documentation demonstrating that PTF's were qualified to perform this work

THE AGREEMENT

- National Agreement, Article 7.1.B.2

CHAPTER 6

THE ISSUE: CROSSING CRAFTS, OCCUPATIONAL GROUPS, AND/ OR WAGE LEVELS

THE DEFINITION

Management may not normally make cross-craft or cross-occupational group assignments unless there is an insufficient workload in the losing craft and an unusally heavy workload in the gaining craft.

THE ARGUMENT

The circumstances under which cross-craft or cross-occupatinal group assignments may be appropriate are very limited. Article 7 is a general prohibition against such assignments with very limited exceptions. If management claims an insufficient workload in one craft and an unusually heavy workload in another, the burden shifts to the Employer to prove those claims. Management may not make such assignments solely to avoid overtime in one craft or occupational group.

THE INTERVIEW

- What work did Letter Carrier Smith perform on Wednesday between 0700 and 0900?
- Isn't (distribution of parcel post) normally Clerk Craft work in this office?
- Who made the decision to make this cross-craft assignment?
- Why did you decide to use Letter Carrier Smith to perform this Clerk Craft work?
- Why couldn't you have used Clerks to perform this work?
- Wasn't one of your major concerns the fact that you would have had to bring in a Clerk on overtime?
- How much overtime did the Letter Carrier Craft work on the day in question?
- How much overtime was worked in the Clerk Craft on that day?

THE DOCUMENTATION

- Position description(s) of employees assigned across crafts, occupational groups or levels
- Position description(s) of employees normally performing this work
- Clock rings of employees assigned across crafts, occupational groups or levels
- Clock rings or work hour summary for all members of craft working in APWU craft or occupational group (overtime level in losing craft or occupational group)
- Clock rings or work hour summaries in gaining craft (overtime level in gaining craft)
- PS Forms 1723 [Assignment Order] if used
- PS Form 1230 A or B if used [usually in smaller offices]
- Mail volume reports
- Identify or document work available in employee's own craft
- Witness statements or interviews
- Supervisor interviews or statements
- Light / limited duty job offer (if applicable)
- Medical restrictions of employee (if any) being assigned across craft lines
- Transfer hours report

THE AGREEMENT

- National Agreement, Article 7.2
- National Agreement, Article 13
- National Agreement, Article 19
- Employee & Labor Relations Manual, Part 546

CHAPTER 7

THE ISSUE: MAXIMIZATION OF PART-TIME FLEXIBLES TO FULL TIME

THE DEFINITION

Management must maximize the number of full-time regular duty assignments and minimize the number of part-time flexible assignments.

THE ARGUMENT

Article 7, Section 3.B requires that the Employer "maximize the number of full-time employees and minimize the number of part-time employees who have no fixed schedule in all postal installations." (However, it should be noted that this language does not create any new rights in those offices which have 200 or more man years of employment [80-20 offices].) Where we can demonstrate that part-time flexibles are working assignments that could be full-time positions, the burden properly shifts to management to demonstrate why a full-time regular duty assignment would not be possible. There is no requirement that we must consider only the hours of a single part-time flexible in order to show the existence of a potential full-time regular duty assignment. Most arbitrators will permit the Union to combine PTF hours because to do otherwise would be to permit the Employer to manipulate part-time flexible schedules in order to circumvent their general obligation to maximize full-time regulars.

> *"The Employer shall maximize the number of full-time employees and minimize the number of part-time employees who have no fixed schedule in all postal installations."*
>
> Article 7.3.B

In larger offices (those with 200 or more employees) the Employer's obligation is to maintain an 80% full-time workforce. In addition, wherever a single part-time flexible works eight (8) hours within ten (10) on the same five (5) days in the same assignment each week over a six (6) month period, this demonstrates the need for converting the assignment to a full-time position. [Article 7.3.C] Furthermore, when a part-time flexible has performed duties within his craft and occupational group (not necessarily the same assignment) within an installation at least 40 hours per week (8 within 9 or 8 within 10 as applicable), 5 days a week over a period of six months (again, not necessarily the same 5 days) a part-time flexible must be converted to full-time status. [Maximization Memorandum of Understanding]

THE INTERVIEW

- Isn't it true that a full-time regular duty assignment with these hours and off-days could be made to work in this office?
- Who do you have to get authoization from in order to create additional full-time regular duty assignments?
- Have you attempted to get additional full-time regular duty assignments? What happened?
- Why wouldn't a full-time regular duty assignment work?
- What changes would be necessary in order to make a full-time regular duty assignment possible?

Often times, the Postmaster in a small office may be our best ally in a case of this type. They know how important another full-time regular duty assignment is to their part-time flexibles and they want to create the best situation for their employees. Even though they know it would be possible to create another FTR duty assignment their superiors are the ones blocking it. As a result, if handled properly, they will often provide us with valuable assistance.

THE DOCUMENTATION

- Clock rings / time cards for all PTF's, casuals, loaners, TE's, cross-craft, etc.
- Graphs - showing at least 6 months, PTF hours and identifying FTR assignments [Remember - if grievance is not resolved at lower steps you will need to continue requesting time cards or clock rings and graphing them until the case is arbitrated. Plan to be in this one for the long haul.]
- PTF seniority list
- Listing of current FTR duty assignments in section or office, including position descriptions, off days and hours
- PS Forms 3971 (leave counts towards maximization as long as it was not taken solely for that purpose)
- Witness statements or interviews

- Supervisor interviews or statements
- Weekly work schedules

THE AGREEMENT

- National Agreement, Article 7.3
- National Agreement, Maximization MOU

CHAPTER 8

THE ISSUE: CONSECUTIVE OFF DAYS

THE DEFINITION

Employees are entitled to work schedules with consecutive work days (and consecutive off days). Split duty assignments with split off days must be minimized.

THE ARGUMENT

Article 8.2.C requires that "[a]s far as practicable the five days [of a full-time regular employee's work week] shall be consecutive days..." What this means is that the Employer must make every effort to avoid split off days and where it must post a position without consecutive off days, the burden shifts to the employer to show why doing so was not "practicable." Employees have a considerable interest in working a consecutive day work week and the Employer must shoulder an equally considerable burden in demonstrating why this is not "practicable" or "doable." Simply avoiding overtime or convenience of scheduling excuses will usually not be enough. The Employer must show that some significant service consideration required the change.

THE INTERVIEW

- Didn't this duty assignment previously have consecutive off days?
- Who made the decision to change it to split off-days?
- Why was this duty assignment changed to split off-days?
- What consideration, if any, was given to retaining some form of consecutive off days?
- Was your sole reason for making this change an attempt to reduce overtime on Mondays?
- Has your overtime decreased on Mondays?
- What change has occurred in your overtime on the other days of the week?

- How many other split off day duty assignment do you have posted in this section?

THE DOCUMENTATION

- Previous job posting
- New job posting or notice to employee/union of intent to abolish and repost
- Clock rings / time cards
- Witness statements or interviews
- Supervisor interviews or statements
- Overtime records (by day of week)
- Mail volume reports or other documentation of workload by day of week
- Delayed mail reports, if any
- Position description
- LMOU provisions
- Documentation as to other duty assignments in the section or office (how many are currently consecutive off days and how many are split?)
- Casuals and PTF's work schedules

THE AGREEMENT

- National Agreement, Article 8.2.C
- LMOU

CHAPTER 9

THE ISSUE: OVERTIME ASSIGNMENTS

THE DEFINITION

Full-time employees not on the overtime desired list (OTDL) may not be required to work overtime unless all available employees on the OTDL have worked up to twelve (12) hours in a service day or sixty (60) hours in a service week.

THE ARGUMENT

The overtime provisions in Article 8 and your LMOU are intended to protect employees who do not wish to work overtime from having to do so whenever possible while giving those employees who wish to work overtime the opportunity to do so. Management cannot require non-OTDL employees to work overtime unless they have first maximized the utilization of available and qualified OTDL employees. Management may not bypass available OTDL employees and require non-OTDL employees to work overtime solely to avoid the payment of penalty overtime.

THE INTERVIEW

- What work did not the non-OTDL employees perform on overtime?
- Haven't you been told by your superiors to avoid penalty overtime at all costs?
- Isn't the main reason you sent the OTDL employees home after two (2) hours because they would have thereafter gone into a penalty overtime status?
- There is no dispute that the OTDL employees were available and qualified to perform the work in question (other than their penalty status), is there?
- Were there any reasons other than your concerns about penalty overtime which precluded your using the OTDL employees up to twelve hours instead of requiring the non-OTDL employees to work?
- Did you make the decision to send the OTDL employees home after 10 hours or were you told to do so?

- Isn't it true that if the OTDL employees had been used for an additional two hours it would still have been possible to meet the critical dispatch?

THE DOCUMENTATION

- Overtime Desired List
- Seniority list
- Clock rings / time cards
- Overtime authorization (PS Form 1261)
- Dispatch schedules
- Witness statements or interviews
- Supervisor interviews or statements
- 3971's for any employees excused
- Position description of employee doing work
- Position description of bypassed employee
- LMOU provisions
- Work schedules
- Training records or documentation establish qualification of bypassed employee

THE AGREEMENT

- National Agreement, Article 8.5
- LMOU

CHAPTER 10

THE ISSUE: ABSENT WITHOUT APPROVED LEAVE (AWOL)

THE DEFINITION

Absent without approved leave (AWOL) is a non-pay status resulting from a management determination that no kind of leave (paid or unpaid) can be granted, either because (1) the employee did not obtain advance authorization or (2) the employee's request for leave was denied.

THE ARGUMENT

The Postal Service's leave policy still must be administered on an equitable basis, considering both the needs of the Employer and the welfare of the individual employee. The supervisor may not arbitrarily, capriciously, or discriminatorily disapprove leave, thus placing the employee in an AWOL status. Nor may every disapproved request for annual leave or sick leave automatically be charged as AWOL. If the supervisor, for instance, is satisfied that a request for annual leave is legitimate, but the employee has insufficient annual leave, the request should be approved but recorded as LWOP. Or, if a request for sick leave is warranted but not compensable under the sick leave provisions, the employee should be given the option to convert the request to annual leave or LWOP, instead of automatically being charged AWOL. Similarly, not every leave request for which advance authorization was not obtained may be charged as AWOL. The leave provisions anticipate that occasional requests for unanticipated annual leave or sick leave will occur. Even a blanket policy that all no-calls or late calls are to be charged AWOL would be inappropriate. Undoubtedly, many no-calls will turn out to warrant an AWOL determination. However, each case must be examined on it's own merits. For example, where an employee was incapacitated and notified the employer as soon as she was able to do so, sick leave would be appropriate rather than AWOL.

THE INTERVIEW

- Why was the grievant determined to be AWOL?
- Who made the decision?
- Is everyone who calls in late automatically AWOL?

- Is this policy that everyone who fails to call in before their scheduled start time is automatically AWOL in writing somewhere?
- You did understand, didn't you, that grievant was in the hospital this morning and didn't have access to a phone until two (2) hours after her tour began?
- Would it have made any difference if you would have known this?
- Is there anything grievant could have done or submitted to get you to change your mind and approve sick leave for the two (2) hours before she called in?

THE DOCUMENTATION

- PS Form 3971 (leave slip)
- Medical/emergency evidence or documentation
- Grievant's statement or interview
- Witness statements or interviews
- Supervisor interviews or statements
- Call-in records
- Employee's PS Form 3972
- Discipline notice if issued
- Documentation or statements as to other employees treated differently

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- LMOU
- Employee & Labor Relations Manual, Part 510

CHAPTER 11

THE ISSUE: DENIED ANNUAL LEAVE

THE DEFINITION

Annual leave is an earned benefit. Employees earn annual leave each year and they are entitled to use that earned leave either for scheduled vacations, incidental scheduled leave or emergency situations.

THE ARGUMENT

Some annual leave is guaranteed by the Agreement. Most LMOU's have provisions on vacation scheduling guaranteeing employees certain rights to approved annual leave for their scheduled vacations. Some LMOU's even provide for guaranteed incidental leave up to certain fixed percentages during the year. These are negotiated rights to use an earned benefit and management may not deprive employees of this right. Once annual leave is approved it must be honored except in serious emergency situations.

All requests for incidental annual leave other than those guaranteed under the Agreement must be approved or disapproved by the supervisor. Where no specific procedures are spelled out in the parties LMOU, the supervisor's decision must not be arbitrary or capricious. It also may not be discriminatory and must be equitable, considering on a case-by-case basis both the needs of the service and the welfare of the individual employee.

THE INTERVIEW

- It appears that you are the supervisor who disapproved Johnnie Wilson's request for annual leave. Is that correct?
- Why did you disapprove it?
- Were there any specific needs of the Service which factored into your decision?
- You didn't happen to ask Johnnie why he needed this annual leave, did you?
- Why didn't you feel that would be necessary?

- As I understand it, you had decided that no additional annual leave would be granted on Wednesday, so it really didn't matter at all what Johnnie's reason for requesting leave was, did it?

- Is this policy that no more than two (2) people may be off on annual leave a written instruction from your superiors or is it one you have adopted on your own?

- Are there ever any exceptions to this policy?

THE DOCUMENTATION

- PS Form 3971 denying the leave request

- LMOU provisions

- Vacation calendar or leave book

- Seniority list

- Grievant's statement or interview

- Witness statements or interviews

- Supervisor interviews or statements

- Time cards / clock rings

- Employee's PS Form 3972

- Employee's annual leave balance (check stub or computer print out)

- Work schedule and other PS Forms 3971 for day in question

- Documentation and statements as to other employees who may have been treated more favorably

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- LMOU
- Employee & Labor Relations Manual, Parts 510 & 512

CHAPTER 12

THE ISSUE: DENIED SICK LEAVE

THE DEFINITION

Sick leave is an earned benefit. Employees earn sick leave each year and they are entitled to use that earned leave when they are incapacitated or unable to work because of an injury or illness. In addition, employees may use sick leave to care for an incapacitated family member (parent, spouse or child).

THE ARGUMENT

Sick leave is an earned benefit. Sick leave insures employees against loss of pay if they are incapacitated for the performance of their duties because of illness, injury, pregnancy or medical treatment. When possible sick leave is to be requested and approved in advance. However, in unexpected illness/injury situations the employee must notify appropriate postal authorities as to their illness/injury and expected duration of absence. The supervisor is responsible for approving/disapproving each sick leave request. Such approval may not be unreasonably, arbitrarily or capriciously denied. Medical documentation may only be required when the absence is for more than three (3) days, when the employee is on restricted sick leave, or when the supervisor has a legitimate reason to suspect abuse.

Under the Dependent Care Memo, employees are entitled to use up to 80 hours of sick leave each year to care for incapacitated family members (spouse, parent, or child). Such requests for sick leave are subject to the normal documentation requirements for sick leave.

THE INTERVIEW

- Why did you disapprove Mary's request for sick leave?
- Didn't Mary call in before her tour to indicate she would be unable to work because of her cold?
- So as I understand it, you just don't feel that Mary's cold was severe enough to incapacitate her?
- Other than that belief on your part do you have any other basis for believing that

Mary was able to work?

- Under what circumstances do you believe sick leave is appropriate?
- Why did you request medical documentation?
- Under what circumstances is it appropriate for you to request medical documentation?
- Why don't you believe it was appropriate for Mary to use sick leave to care for her sick child?

THE DOCUMENTATION

- PS Form 3971 denying leave request
- Medical documentation
- Call-in records
- Grievant's statement or interview
- Witness statements or interviews
- Supervisor interviews or statements
- Employee's PS Form 3972
- Restricted sick leave records
- Documentation or evidence as to "blanket policy" existing as to medical documentation requirements
- FMLA or dependent care sick leave documentation
- Employee's sick leave balance (check stub or computer print out)
- Documentation or statements as to employee's treated more favorably

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- Employee & Labor Relations Manual, Parts 510 & 513

CHAPTER 13

THE ISSUE: RESTICTED SICK LEAVE

THE DEFINITION

Employees may only be placed on restricted sick leave in accordance with the strict requirements of the Employee & Labor Relations Manual. Management's action may not be arbitrary, must be for the reasons specified and must follow the procedures spelled out in the handbook.

THE ARGUMENT

There are two (2) possible reasons for placing an employee on restricted sick leave. Supervisors who have evidence that an employee is abusing her sick leave may immediately place her on the restricted sick leave list. "Abuse" means using sick leave for reasons other than incapacitation. It does not mean using too much sick leave. There is no minimum sick leave balance which determines excessive use. When an employee is placed on restricted sick leave because they are considered to have used sick leave to frequently, ELM 513.37 spells out a very specific procedure including a number of reviews, discussions with the employee, and opportunities to correct the alleged deficiency which the Service must follow. This process entails some 9 months. Before the employee may be placed on restricted sick leave the following steps must occur: 1) establish an absence file; 2) review the absence file by both the supervisor and higher level management; 3) review of absences and sick leave usage with employee; 4) review of the next quarters absences; 5) if there has been insufficient improvement, meet with the employee and advise him that if there is no improvement during the next quarter, the employee will be placed on restricted sick leave; 6) if there is no improvement, the employee may then be placed on restricted sick leave. If this complete procedure is not followed, an employee may not be placed on restricted sick leave for alleged over-use of sick leave.

THE INTERVIEW

- Were you the supervisor responsible for placing grievant on restricted sick leave?
- Would it be fair to say that you were unhappy with the amount of sick leave grievant has been using during the past few months?
- Is it true then, that the grievant was placed on restricted sick leave because he had used an excessive amount of sick leave?

- Were there any other reasons why you placed grievant on restricted sick leave.
- Other than your suspicions, do you have any evidence at this time indicating the grievant was not actually incapacitated on each of the occasions he requested sick leave?
- On what occasions have you reviewed grievant's attendance with him?
- On what occasions prior to placing grievant on restricted sick leave have you discussed the possibility of restricted sick leave and its consequences with grievant.
- Did you ever tell grievant that if he did not improve his attendance within the next 90 days he would be placed on restricted sick leave.
- Do you have a minimum sick leave balance which you believe triggers consideration for restricted sick leave?

THE DOCUMENTATION

- Notice of placement on restricted sick leave
- PS Forms 3971
- PS Forms 3972
- Medical documentation
- Witness statements or interviews
- Supervisor interviews or statements
- Copy of quarterly listing
- Employee's discipline records, if any
- Grievant's sick leave balance (check stub or computer print out)
- Check employee's OPF for attendance awards, etc.
- FMLA documentation

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- Employee & Labor Relations Manual, Part 513

CHAPTER 14

THE ISSUE: REQUIRING MEDICAL DOCUMENTATION FOR ABSENCES OF 3 DAYS OR LESS

THE DEFINITION

For periods of absence of three (3) days or less, management may accept the employee's statement explaining the absence and request for sick leave. Medical documentation may be required only when the employee is on restricted sick leave or when the supervisor has a reasonable basis to believe it is necessary in order to protect the interests of the Postal Service.

THE ARGUMENT

The supervisor's request for medical documentation may not be arbitrary or capricious. It must be based upon a legitimate belief that real interests of the USPS must be protected. Generally, this would mean that the supervisor must have some reason to believe that the employee may not actually be incapacitated as claimed. A history of discipline for attendance might be one consideration. A pattern of requesting sick leave in conjuction with off days or pay days might be another. Any evidence of possible abuse would certainly raise legitimate suspicion. If the employee had previously been denied annual leave and then called in for sick leave this might be another. Absent any of these conditions, we would argue that the supervisor's request was arbitrary and a violation of the Agreement. No blanket policy requiring everybody to call in on certain days, etc., is permissable. Appropriate medical documentation should be requested at the time of the call-in, not later, and most certainly should never be requested after the employee's return to work. Where medical documentation is requested in violation of the ELM, the appropriate remedy would be compensation for any medical expenses, time spent in getting the documentation, mileage and any other out-of-pocket expenses.

THE INTERVIEW

- Why did you instruct Sarah to provide medical documentation to support her 2 day request for sick leave?
- Is Sarah on restricted sick leave?
- Do you have any evidence that Sarah has abused her sick leave or requested sick leave when she was not actually incapacitated?

- What, if anything, did you review before you decided to require medical documentation?
- To your knowledge, were any other employees required to provide medical documentation under similar circumstances?
- Isn't it true that Sarah has never been disciplined for attendance?
- Had she previously requested annual leave for these two days?

THE DOCUMENTATION

- Medical documentation
- Medical bill, receipt or canceled check
- Record of mileage
- Receipts or documentation of other expenses
- Witness statements or interviews
- Supervisor interviews or statements
- PS Forms 3971
- PS Forms 3972
- Restricted sick leave records
- Any related discipline or AWOL charges
- Documentation or statements regarding other employees treated more favorably

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- Employee & Labor Relations Manual, Part 513

CHAPTER 15

THE ISSUE: ADVANCE SICK LEAVE

THE DEFINITION

Employees who have exhausted their sick leave and suffer from a serious disability or ailment are entitled to request the advance of up to 240 hours of sick leave. Such requests must be supported by appropriate medical documentation and provided there is reason to believe the employee will be able to return to work and be able to repay the advance, such requests may not be unreasonably denied.

THE ARGUMENT

Advance sick leave is provided for in ELM 513.5. The fact that an employee has exhausted their sick leave is not a basis for denying advance sick leave. By definition all applicants for advance sick leave will have exhausted their sick leave. So long as the employee has exhausted his sick leave, can reasonably be expected to return to work and repay the advance, and supports the request with appropriate medical documentation of a serious medical condition, the installation head may not arbitrarily deny the request. Simply put, the installation head must have a reasonable basis for doing so and must be able to explain it.

THE INTERVIEW

- As postmaster or installation head, you are responsible for approving or disapproving all requests for advance sick leave, isn't that correct?
- Did you disapprove the grievant's request for advance sick leave?
- Was the request accompanied by appropriate medical documentation?
- Was there any reason to believe that grievant would not recover and be able to return to work?
- Why did you disapprove the grievant's request for advance sick leave?
- Do you have any evidence that grievant abused his sick leave or is your major concern simply that he has used too much sick leave and should have saved more

over the years?

- Have you ever approved any requests for advance sick leave? If so, for whom and when?
- Have you ever disapproved any requests for advance sick leave? If so, for whom and when?
- How did their situation differ from the grievants?

THE DOCUMENTATION

- Request for advance sick leave
- Medical documentation
- Management's denial of advance sick leave request
- Grievant's statement or interview
- Supervisor interviews or statements
- PS Forms 3972
- Previous discipline for attendance
- Restricted sick leave list
- Medical documentation for any serious illness which used up significant amounts of sick leave
- PS Forms 3971 showing annual leave or LWOP actually used for absence
- All advance sick leave requests and action taken (regardless of craft) for previous 12 months

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- Employee & Labor Relations Manual, Part 513

CHAPTER 16

THE ISSUE: ACT OF GOD LEAVE

THE DEFINITION

When groups of employees are prevented from working or reporting to work by community disasters (such as storms, fire, or flood) which is general rather than personal in scope and impact the installation head should approve "Act of God" Administrative Leave.

THE ARGUMENT

Not every storm is an "Act of God" as that term is used in the Employee & Labor Relations Manual (ELM). Only when the storm rises to the level of a community disaster can it qualify. It must prevent groups of employees from working or reporting to work. When all these things occur, employees are entitled to the "Act of God" administrative leave benefit as spelled out in ELM 519. "Act of God" leave is a contractual entitlement. While the Employer does have discretionary authority to approve or disapprove administrative leave within the specific confines of ELM 519, "Act of God" administrative leave is not subject to the arbitrary or capricious whim or discretion of management. The installation head is required to determine whether the employee's absence was due to the storm, or whether he or she could have reported to work with reasonable diligence.

THE INTERVIEW(s)

Postmaster/Installation Head

- Are you the management official responsible for determining whether to approve "Act of God" leave in this installation?
- Why did you disapprove "Act of God" leave for employees who requested it during the last storm?
- Isn't it true that almost 85% of our employees were unable to make it to work because of the storm?
- What percentage of employees do you believe would need to be prevented from

reporting to work to constitute a "group"?

- Have you ever approved "Act of God" administrative leave?
- If so, how did that situation differ from this one?
- If not, what do you envision would be necessary for a storm to rise to the level of community disaster warranting the approval of "Act of God" administrative leave?
- Do you have any reason to believe that the employees who called in could have made it to work if they had used reasonable diligence?
- Are employees expected to put their lives at risk in order to get to work? In your mind, what does constitute reasonable diligence in that regard?
- Do you expect your employees to comply with the instructions of authorities regarding the safety of using the highways?

The Employee(s)

- Where, specifically, do you live and what routes to you normally travel to get to work?
- What was the weather like as best you recall on Monday?
- What efforts did you make to get to work?
- What advice or reports from local authorities were you aware of?
- Do you have tapes of any TV or radio reports?
- Who did you talk to when you called in?
- What kind of leave did you request?
- What were you told when you called in?
- In what ways, if any, was this storm different from most winter storms?
- Did you or any family members travel anywhere at all on Monday? If so, what was it like?
- What instructions, if any, have you been given by management about safety and winter driving conditions?

THE DOCUMENTATION

- Newspaper accounts
- Television or radio accounts (videotapes or tape recordings)
- State, local, or federal declarations of emergency
- Witness statements or interviews for each employee (method of transportation usually used, routes taken, efforts made, and problems encountered)
- Supervisor interviews or statements
- Cancellations of USPS services (letter carriers / rural carriers / MVS or contract routes, etc.
- Truck arrival and departure records
- Machine run times / MODS / volume reports / tour condition reports
- LMOU provisions on curtailment
- Prepare map showing all employees who made it and those who didn't
- Public transportation records (were, airports, city buses, taxi cabs, etc. running?)
- Weather Service reports
- Highway Patrol or local authority road condition reports
- List of all employees identifying those who made it and those who didn't (including start time)
- PS Forms 3971 for each employee who called in

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- National Agreement, Article 30
- LMOU, Item 3
- Employee & Labor Relations Manual, Part 519

CHAPTER 17

THE ISSUE: FAMILY & MEDICAL LEAVE ACT VIOLATION

THE DEFINITION

Qualified employees are entitled to up to twelve weeks of approved FMLA protected leave during each leave year, when such absences are necessitated by the employee's own incapacitation, or the incapacitation of the employee's spouse, child, or parent, due to a serious medical condition, or as the result of the birth or adoption of a new son or daughter. When properly documented and requested such leave requests must be approved and may not be the subject of discipline or other adverse action.

THE ARGUMENT

Family and Medical Leave is protected by the law and by the Contract. Enacted by statute, and further developed through Department of Labor Regulations as well as ELM 515, FMLA leave is a protected right. Properly submitted and documented requests by eligible employees for FMLA protected leave may not be denied. The law, and postal regulations, requires that the employee make the Employer aware that he is requesting leave for an FMLA covered condition. The employee does not have to specifically request FMLA leave to invoke the protection of the Act. The law requires, and the Postal Service has acknowedged, that no employee may be disciplined for using FMLA protected leave.

THE INTERVIEW

- Do you have any reason to believe that Charlie is not eligible for FMLA leave?
- Didn't Charlie submit documentation from his child's physician on an appropriate APWU Form supporting his request for leave?
- Were there any parts of that form which were not completely filled out or which you could not understand?
- Why did you disapprove Charlie's request for FMLA protected leave?
- It is my understanding that you approved the leave, "not FMLA." Is that correct?

- Do I understand correctly that you will not approve FMLA protected leave unless the physician's documentation includes a diagnosis and prognosis?
- Is it your understanding that you are entitled to receive and review the physician's prognosis and diagnosis? If so, on what do you base that understanding?
- Do I also understand that the other reason for your denial was because Charlie's six year old son was in the hospital and not at home where Charlie might be needed for his care?

THE DOCUMENTATION

- PS Forms 3971
- FMLA documentation (APWU forms, WH-381, or medical documentation)
- Management correspondence with the employee's doctor
- Copies of all documents given to employee by supervisor
- Grievant's statement or interview
- Supervisor interviews or statements
- Any additional or more detailed medical information
- Copies of specific portions of FMLA regulations cited as being violated
- Previous years work hours to show 1250 hours worked
- Check bulletin boards for appropriate postings
- WH-380
- Call-in records
- PS Form 3972

THE AGREEMENT

- National Agreement, Article 10
- National Agreement, Article 19
- Employee & Labor Relations Manual, Part 515

CHAPTER 18

THE ISSUE: HOLIDAY SCHEDULING VIOLATION

THE DEFINITION

As many full-time and part-time regular employees as possible must be excused from working on a holiday or day designated as their holiday. They cannot be required to work until after management has utilized all available and qualified part-time flexibles, casuals, transitional employees, and volunteers to the maximum extent possible including the use of overtime where necessary.

THE ARGUMENT

Article 11 is intended to protect full-time and part-time regular employees from working their holiday whenever possible. It requires that the Employer determine the numbers and categories of employees needed to work the holiday in advance and that a schedule be posted by Tuesday of the preceding service week. Article 11 and the Local Memorandum of Understanding determine the exact "pecking order" to be used in each office. Casuals and PTF's should be required to work, including overtime, before anyone can be drafted on their holiday. All volunteers, both holiday and overtime (including penalty), should be given the opportunity before anyone is required to work their holiday.

Employees are not necessarily guaranteed to work their bid schedule when scheduled to work the holiday. The posted holiday schedule should include their start time or hours of work and that is the schedule they are entitled to work. If, after the posting deadline, management changes that schedule the employee is eligible for out-of-schedule premium. Employees who report to work are subject to workhour guarantees in Article 8. While employees may waive those guarantees in cases of personal emergency or illness, management should not solicit volunteers to leave early. If conditions change after the posting, management may cancel some or all of the scheduled employees (prior to their reporting) without incurring any guarantees. On the other hand, management is prohibited from "playing it safe" by routinely overscheduling and then cancelling as the holiday approaches. If, because of changing conditions, additional employees must be added after the Tuesday posting deadline, the overtime desired list selection procedures, and not the LMOU holiday "pecking order," apply.

THE INTERVIEW

- Who made the determination as to the number and categories of employees needed to work on the Presidents' Day Holiday?
- On what did you base this determination?
- What efforts, if any, did you make to maximize the number of employees who could be excused on their holiday or designated holiday?
- For how many hours did you schedule available casuals?
- For how many hours did you schedule available part-time flexibles?
- Why didn't you consider scheduling the PTF's or casuals for overtime?
- Didn't full-time regular clerk Roberts volunteer to work his off day on Monday?
- Was there any reason Roberts was not scheduled other than the fact that he would have been on penalty overtime?
- Who approved PTF Clooney's request for annual leave for Monday? What was the reason for the request?
- Do I understand correctly that casual employee Phillips cannot work on Mondays because of his other job?
- What time on Wednesday were FTR's Alexander and Johnson as well as PTR Wendell added to the schedule? Do you know why they were omitted in the first place?

THE DOCUMENTATION

- Holiday schedule
- Holiday volunteer list
- Seniority list
- Clock rings / time cards / ETC reports
- Mail volume reports / present holiday and previous holidays

- Past holiday schedules
- Witness statements or interview
- Supervisor interviews or statements
- LMOU pecking order
- Work schedules for PTF's and casuals
- Staffing comparisons between normal workdays and holiday
- PS Forms 3971 for any employees excused early
- PS Forms 1723 for 204-B's

THE AGREEMENT

- National Agreement, Article 11
- National Agreement, Article 30
- LMOU, Item 13

CHAPTER 19

THE ISSUE: DENIED LIGHT DUTY

THE DEFINITION

Any full-time regular or part-time flexible employee recuperating from a serious illness or injury is entitled to request light duty work. Such requests must be supported by appropriate medical documentation and be submitted in writing to the installation head. The Employer must give the greatest consideration to such requests and make every effort to locate and provide appropriate light duty work.

THE ARGUMENT

The Employer is obligated to make "every effort" to find light duty work for requesting employees. They must give the "greatest consideration" to each request. This is a very substantial obligation. The employee must submit a written request supported by appropriate medical documentation. Once this happens the burden shifts to management to show what efforts were made to find light duty work within the employee's restrictions. It is not enough to simply assert that no work is available. Management must demonstrate the extent of their effort to find available work. This effort must be timely. In most cases it should not take more than one or two days to process a light duty request and locate available work. If no work can be found the Employer must notify the employee in writing, stating the reasons why no work could be found. The absence of a written denial is often found, by itself, to be a sufficient basis for sustaining a denied light duty grievance.

THE INTERVIEW

- Were you the management official responsible for determining that there was not light duty work available for grievant within his restrictions?
- Exactly what did you do to try to find light duty work for grievant?
- Did you keep any records of who you talked to or what they said?
- What was the hold-up that made it take 10 days before grievant was told no work was available?

- How did you notify grievant that no work was available? Did you telephone him or what?
- Are Customer Service employees permitted to work light duty in Mail Processing?
- Did you consider crossing crafts to find a light duty assignment?
- I notice that Mary Sheely was recently given a light duty assignment. Was that because she was injured on the job?
- Couldn't the grievant have cased mail on the primary with his left hand?
- How many casuals were working in the OG primary?
- How long has it been the Postmaster's policy not to provide light duty work for employees injured off-the-job?

THE DOCUMENTATION

- Request for light duty
- Medical documentation
- Written denial of light duty
- LMOU light duty provisions
- Grievant's statement or interview
- Witness statements or interviews
- Supervisor interviews or statements
- Names/evidence of employees given light duty within the past year
- Names/evidence of employees denied light duty within the past year
- Evidence of work available within grievant's restrictions
- PS Forms 3971

- Employee's seniority
- Fitness-for-duty results (if applicable)
- Work schedules showing casuals doing work within employee's restrictions
- Clock rings / time cards for casuals
- Documentation of management efforts (or lack thereof) to find work
- Management documents showing office policy on light duty assignments

THE AGREEMENT

- National Agreement, Article 13
- National Agreement, Article 30
- LMOU, Items 15-17

CHAPTER 20

THE ISSUE: DENIED INFORMATION

THE DEFINITION

Upon request, the Employer is required to permit the Steward to review files, documents and other records relevant to a possible grievance and to provide copies of such documents where needed.

THE ARGUMENT

Whenever management denies information in the form of documentary evidence or witness access for interviews, our due process rights to conduct investigations in grievance processing are violated. In the course of an investigation to determine whether to file a grievance or for evidence gathering in support of a grievance, or, for that matter, to determine whether to continue processing a grievance, the Union has the right to access all relevant information. Often, management denies the Union access to documents, records, forms, witnesses, etc. This denial by management constitutes a very serious due process breach which prevents the best possible defense in a disciplinary case through full development of all defense arguments.

Under the Collective Bargaining Agreement, the Union has contractual rights to all relevant evidence including witnesses. Denial of that information seriously compromises our ability to represent our membership and each denial must be properly challenged. Should management deny information, then several arguments are born:

1. Negative Inference Created

The negative inference argument is best defined as a presumption that the evidence withheld by management would either prove the Union's case or seriously damage the employer's ability to meet any burden of proof it may have.

The Union must argue that the withheld information would have proven - if it had been produced - precisely what the Union contended the information would have revealed. Perhaps just as important, we should demand that because of management's failure to provide requested information, even when that information is made available, because it was denied at the lower steps it can no longer be introduced to support management's case.

2. Lowest Possible Step Resolution Fatally Damaged

Resolution of grievances at the lowest possible step is the cornerstone of the Grievance/Arbitration procedure. When management denies access to the Union of relevant information, then full development of all the facts, arguments, and defenses cannot be achieved. Without such full development and without everything being placed before the parties for discussion, there is no real probability of resolving the grievance at the lowest possible step.

Thus, Article 15.3's basic principle is violated and with it the due process right of both the grievant and grievance to benefit from the possibility of lowest possible step resolution.

WHEN INFORMATION IS DENIED

When a request for access to information is denied, we must ensure that the "hook is set" through very deliberate action. That action includes:

1. File an additional grievance citing Articles 15, 17, and 31 on the information denial.

In that grievance, request as a remedy:
(1) The information be provided so long as such access is given prior to any grievance step meetings and,
(2) Should the information not be provided prior to any grievance step meeting, that the original grievance be sustained.

Although it can be argued an additional grievance is neither necessary nor reasonable under our Collective Bargaining Agreement, many arbitrators will ask the question and let management off the hook if the Union did not file the repetitive grievance.

2. Correspond With Follow Up Request For Information

Follow the initial Request for Information with a personalized letter taking the Request for Information form to a more specialized level. In this manner, an arbitrator will notice the Union made a persistent, "second effort" to obtain the information. It is a good idea to submit at least two (2) correspondence in addition to the original Request for Information prior to the Step 2 meeting. At least one of the two should be to the immediate superior of the addressee to the original Request for Information. In this way, we can point out to the Arbitrator we were making every effort including affording a higher level manager the opportunity to rectify the lower level supervisor's failure.

3. **Include Denial of Information Reference in Original Grievance's Step 2 Appeal, or Additions and Corrections.**

Following the full disclosure commitment of the parties in Article 15 and our responsibility to present fully developed grievances at Step 2 (as far as possible), we must ensure that each bit of information we are denied access to during our attempted investigation is referenced as part of our contentions in our Step 2 appeal and/or additions and corrections.

Specifically citing a violation of Articles 15, 17, and 31 in our Step 2 appeal will prevent management from successfully arguing that the denial of information issue is a new argument and not proper for consideration by the Arbitrator. Remember, request all data you believe to be relevant. We then determine what we will use.

Management, when it denies any evidence, violates the Collective Bargaining Agreement and creates very strong due process breaches. Ironically, the arguments management creates by denying us information are often more beneficial to our case than would be the information had it been obtained.

THE INTERVIEW

While most arguments on information denials will seem self-evident based upon review of management comments on the requests for information, coupled with a "denial" signature or initials, the interview is crucial when there is no such notation. Further, the interview can strengthen our case when management supports its denials through responses. Some examples are:

- You did deny the information?
- You have the information requested on the Request for Information in your possession?
- Isn't it possible that that information could have been helpful to the Union in deiding whether the pursue this grievance?
- If this Letter Carrier was provided limited duty work in the Clerk Craft why wouldn't her medical restrictions be relevant?
- You did not provide access to Postal Inspector Arnold to the Union?
- Doesn't Article 17.3 give the Union access to witnesses?

- Are you saying Postal Inspector Arnold is not relevant to the Union's grievance?
- What Collective Bargaining Agreement article did you rely upon in denying the Union access to Postal Inspector Arnold?

Denial of information is often a Catch-22 for management and our interview process enables management to really damage their defense of the denial. The interview also ensures management is prevented from presenting some innovative excuse for the denial at arbitration. We not only want proof of denial for our Step 2 appeal, but we want to cement management's reasons for denial. This will greatly enhance our pursuit of this due process violation.

THE DOCUMENTATION

- Request for Information
- Management's denial
- All follow-up correspondence or requests
- Moving papers of the original grievance
- Any documentation which may show either the existence or relevance of the requested information
- Supervisor's interview or statement
- Correspondence/documentation showing status of appeal of information denial under NLRB dispute resolution Memorandum of Understanding

THE AGREEMENT

- National Agreement, Article 15
- National Agreement, Article 17
- National Agreement, Article 31
- National Agreement, Article 3

CHAPTER 21

THE ISSUE: DENIED STEWARD RELEASE

THE DEFINITION

Management may not unreasonably deny a properly submitted request from the steward to be released to investigate or adjust grievances, or to investigate a problem to determine whether a grievance exists.

THE ARGUMENT

Management may not determine in advance what time the steward reasonably needs to investigate a grievance. Management may ask the steward seeking to be released to estimate the amount of time which the steward anticipates will be required. Management may delay the release of a steward during a period which will unnecessarily delay essential work. However, the burden is on the Employer to show what the workload is and why the steward could not have been released, including why a replacement could not have been found. Management may inquire as to the general nature of the grievance but cannot demand specifics. Normally, there should be no delay in releasing the steward. Only in very rare circumstances should the steward's release be delayed beyond two (2) hours. When management must delay the release of the steward, the supervisor must inform the steward of the reasons for the delay and the anticipated alternative release. While stewards are not permitted to continue working into overtime for the sole purpose of processing grievances, management also cannot refuse to release a steward solely because she is in an overtime status.

When management's unreasonable denial of steward's time becomes an issue, it is always a good idea to submit your request for steward's time in writing. Include specific documentation as to the number and general nature of grievances you are working on. This will enable you to better document your grievance.

THE INTERVIEW

- Why did you deny Steward Olsen's request for steward duty time yesterday?
- What, exactly, was the pressing workload at the time?
- What alternatives did you consider other than denying Olsen's steward time?

- What other supervisors did you check with to see if they could provide a replacement?
- Why didn't you explain to Steward Olsen why her release must be delayed? Do you believe an explanation would have been appropriate?
- Wasn't there an alternative time before the end of Olsen's tour during which you could have arranged to release her? Why didn't this happen?
- Why didn't you explain to Steward Olsen when an alternative release time would be arranged? Don't you believe such an explanation would have been appropriate?
- You have indicated that Ms. Olsen is not providing you sufficient information about the grievances she is investigating. What specific information do you believe you are entitled to?
- What part of the Contract do you believe entitles you to that specific information?
- You told Steward Olsen that she could only be released for 20 minutes. Have you determined that 20 minutes is sufficient time to investigate this type of grievance? On what do you base that determination?
- Did you consider asking Ms. Olsen to estimate how much time she believed would be necessary?

THE DOCUMENTATION

- Request for Steward's duty time
- Management's denial
- Documentation as to number and general nature of grievances pending
- More specific information on each of these grievances (moving papers, time limits, nature of documentation to review, etc.)
- Grievant's statement or interview
- Steward's statement or interview
- Supervisor's interview or statement

- Time cards / clock rings / ETC reports
- Documentation of previous denials of steward time / grievances / settlements
- Mail volume and/or overtime reports
- Leave records

THE AGREEMENT

- National Agreement, Article 17

CHAPTER 22

THE ISSUE: LETTERS OF DEMAND - SECURITY VIOLAIONS

THE DEFINITION

The National Agreement and the handbooks and manuals require management to provide adequate security for all employees responsible for postal funds. Adequate security has been defined by arbitrators as a burglary-resistant facility and reasonable procedures and means to protect valuables. Clerks must report security violations when they occur on the APWU form or a note to the supervisor. These notifications must be retained until at least the next audit to prove that the clerk did notify management of the alleged security violations.

THE ARGUMENT

In window shortage cases that involve alleged security violations, the Union must prove that the violation did exist. Security violations can occur in a variety of ways. There are three references in the Financial Handbook (F-1) that require management to change the combination on the vault or safe when someone who knows the combination leaves the unit. This includes managers and any member of the bargaining unit. Key checks must be done on an annual basis. This requires the supervisor to take the keys of the window clerk and accompanied by the window clerk check all these keys in all locks in the window area. This includes all the drawers and compartments in the screen line, all other containers that window clerks use to store stamp stock, and the spaces used in the vault or safe to store the stamp stock of the window clerk overnight. It is not permissible to allow the window clerk to conduct their own key check. The F-1 Handbook requires the supervisor to conduct this key check, however, the supervisor is not allowed to conduct this key check without the window clerk going with the supervisor. The supervisor is required to conduct a semi-annual check on the duplicate key envelope (3977). This verification is done by the supervisor without the presence of the clerk. This check is to insure that the envelope is sealed, the flaps are signed by the window clerk and the supervisor and the names of the window clerks witnesses are on the form 3977. Management is required to keep an inventory or log of both the key check and the 3977 verification. The Union should request a copy of at least the last two key check logs and the last two 3977 inventories. We need to insure that these are completed as prescribed in the F-1 Handbook.

The union must investigate whether unauthorized people are in the window area. The rural carriers are the ones that continually violate this requirement. Rural carriers are not to be allowed behind the window clerks. If they must mail parcels when they return from the route or conduct other window business, they should be advised by management that they are required to get in the

line in front of the window clerk and conduct their business or utilize the services of the accountable clerk. They are not allowed in the window area. The Union must check the security of the clerk's cash and stamp drawers when they are locked in the screen line. Can these drawers be opened by pushing down on them? Are locks worn so badly that the drawer can be opened by any key? Is there a common key available to all window clerks to lock their valuables in the screen line? If so, is there an opportunity for someone to make a duplicate key and have access to all window clerks' accountabilities when they are stored in that work station? The Union should insure that the locks and keys are changed when a window clerk takes over a window credit. Sometimes the keys are not turned in or the window clerk has a duplicate key and if the locks are not changed, access to the credit can be gained by the window clerk that last had the credit.

The requirement to provide adequate security does not end with the window clerk and their window credit. Management is required to provide adequate security for the handling of registered mail either by the registry clerk or the accountable clerk or the window clerk. A secure compartment or vault must be provided to store registers and a system must be in place to provide for the required signatures when registers are moved through the mail processing system.

THE INTERVIEW

- When Jane left the window unit was the vault combination changed?
- When supervisor I. Dontknow left the window unit was the vault combination changed?
- When was the last key check completed?
- Did you do the key check?
- If so, did you check all keys in all locks in the window area?
- When was the last key envelope (form 3977) check completed?
- Did you find any discrepancies with the form 3977?
- Do you have access to the grievant's IRT access code?
- Is the access code stored in a sealed form 3977?
- Are the drawers and compartments in the screen line worn enough to allow access without a key?

- Does the grievant have adequate storage space in the vault?
- Can the grievant store all the accountable items in the vault overnight?
- Are there unauthorized employees in the window area?
- Is the building secured to prohibit the public from entering the building?
- Has the grievant or other window clerks turned in security violations?
- If so, what have you done to correct those violations?
- How frequently are the IRT's cleaned by maintenance?
- Have the window clerks reported sticky keys or some other malfunction of the IRT?
- Has the disc for the window clerk crashed?
- If so, how were the entries reconstructed?
- Have you had any complaints about the grievant's work at the window?
- Does the grievant exercise reasonable care in the performance of his/her duties?

THE DOCUMENTATION

- Letter of Demand
- PS Forms 3368 (stamp credit examination report)
- PS Forms 3294 (previous, current and recount audits)
- PS Forms 3369 (assigned credit receipt)
- PS Forms 3356 (stamp requisition bulk quantities)
- PS Forms 1628 (key inventory)
- PS Forms 3958 (supervisor's record of stamp stock)
- PS Forms 571 (report sent to postal inspectors for shortage/overage over $100)

- PS Forms 1908 (trust and suspense account adjustments sent from accounting)
- PS Forms 1412 (daily financial report) for audit period
- Money Orders, if applicable
- PS Forms 17 (stamp requisition) for audit period
- Security violation reports
- Grievant's statement or interview
- Supervisor's interview or statement
- PS Forms 3977 (properly inventoried and examined)
- Duplicate key inventory
- Work orders for all repairs or replacement of IRT, locks, etc.
- Most recent financial audit for facility (usually done by Postal Inspectors)
- POS system problems logbook
- Records of shortages/overages for other clerks and/or main stock

THE AGREEMENT

- National Agreement, Article 28
- National Agreement, Article 19
- USPS Handbook, F-1

CHAPTER 23

THE ISSUE: LETTERS OF DEMAND - PROCEDURAL ISSUES

THE DEFINITION

There are many procedural issues involved in a letter of demand. The most prominent was the appeal rights as quoted in the "old" Financial Handbook (F-1). The F-1 Handbook was changed by management and the Union has challenged that change that eliminated the specific appeal language. However, until the challenge is resolved we must use the language from the current Financial Handbook which does not contain that same specific language. The vast majority of the procedural issues are contained in the letter of demand. We must review the letter of demand closely to insure that all the required language is contained in it. Article 28 requires that in advance of any money demand the employee must be informed in writing and the demand must include the reasons therefore. The letter of demand must meet the following basic requirements; it must be in writing, it must be signed by the Postmaster or his/her designee, it must notify the employee of the existence, nature and amount of the debt, it must specify the repayment options available to the employee. If the letter of demand does not conform to these requirements, it is procedurally defective and we must raise that issue at all steps of the grievance procedure. In addition, the audit must be conducted no less frequently than once every four months. This issue must also be raised at all steps of the grievance procedure.

THE ARGUMENT

A. The Collection Procedure. Management is required to issue a letter of demand to an employee prior to starting a collection action for the funds. The Financial Handbook (F-1) requires that any demand must be in writing and signed by the Postmaster or designee. In some instances management may notify the data center of the existence of a debt. The data center will establish an accounts receivable for the employee. The computer system in effect at the data center will develop a notification to the employee of the accounts receivable in place at the data center. This bill or notification does not meet the requirements of a letter of demand. Therefore, our grievant should be advised not to pay the requested amount until they receive a letter of demand from the Postmaster.

B. The Repayment Options. The repayment options outlined in the letter of demand must meet the requirements of the Financial Handbook (F-1). The "voluntary" payroll deductions must be in the amount of 15% or more of the employee's biweekly disposable pay. The Postmaster may approve a smaller repayment option if the employee's repayment schedule bears a reasonable relationship to the size of the debt and the

employee's ability to pay. Many letters of demand have the words "hardship" in them. That description is not contained in the Handbook and would be a procedural defect in the letter of demand. Involuntary deductions cannot exceed 15% of an employee's disposable pay during any one pay period. Article 28 of the National Agreement prohibits the collection of funds for any size debt if a grievance is filed or a petition is filed pursuant to the Debt Collection Act. The grievance must be disposed of before any collection procedures can begin.

C. The Signature Issue. The Employee and Labor Relations Manual (ELM) requires the Postmaster or his/her designee to sign all letters of demand. The Financial Reporting Handbook (F-1) also requires the Postmaster or his/her designee to sign all letters of demand. In most cases in offices of any size, the window supervisor or the customer services supervisor signs the letter of demand. Management argues that this is the most logical person to assume that responsibility as they are the management person responsible for the window unit. The Administrative Support Manual (ASM) however requires the delegation of that authority to be officially documented. The better reasoned arbitrators in our area consistently rule that the designation must be in writing and if it is not, then the grievance is sustained. Seldom can management produce a letter delegating that authority from the Postmaster to the window supervisor or station manager.

D. The Late Audit Issue. Article 28 requires that the accountability be audited at least every four months. The audit history (form 3368) will reveal the dates of the audits and the date the next audit is due to be conducted. The grievant's paperwork should support the form 3368. Management consistently waits until the very last day of the four month period to conduct the audit. Then, if they miss the day, they attempt to blame the employee by saying he or she was on annual leave or unavailable. That argument does not convince many arbitrators. Arbitrators have stated that the employer controls the schedule of the employees and also controls the auditing procedure. There is no excuse for a delay beyond the four month period.

THE INTERVIEW

- Did you attempt to collect any money from the grievant?
- Did you issue a letter of demand?
- Did you (supervisor) sign the letter of demand?
- Do you have a letter delegating that authority from the Postmaster to you?
- When was the last audit conducted?

- What was the date of this audit?
- Did the grievant request a second audit?
- If so, did you do the second audit or did a different supervisor conduct the second audit?
- Did you enter the closing amount from the previous days form 1412 to the audit sheet?
- Was the audit done away from the window in a secluded area?
- Were there any interruptions during the audit?
- Did both you and the grievant count the stock individually?
- Do you allow the window clerks to verify their stock orders away from the window?
- Are the window clerks required to use form 17 for stock exchanges?
- Are the deposits counted back in the presence of the clerk?
- Is the form 1412 initialed to verify the deposit amount?
- Are the window clerks using the "error correct" on the IRT at the end of the day?
- If so, are the amounts of the "error corrects" significant?
- Does the grievant do good job as a window clerk?
- Does the grievant exercise reasonable care in the performance of his/her duties?

THE DOCUMENTATION

- Letter of Demand
- PS Forms 3368 (stamp credit examination report)
- PS Forms 1412 (daily financial report) for audit period

- PS Forms 3369 (assigned credit receipt)
- PS Forms 3294 (previous, current and recount audits)
- Money Orders, if applicable
- PS Forms 17 for audit period
- Security violation reports
- Grievant's statement or interview
- Supervisor's interview or statement
- PS Forms 3977 (properly inventoried and examined)
- Duplicate key inventory
- Written delegation of authority for supervisor to sign letters of demand
- Work orders for all repairs to IRT, locks, etc.
- Canceled checks / voluntary payroll deductions / involuntary payroll deductions showing collection took place
- Documentation of any efforts to collect while grievance is processed

THE AGREEMENT

- National Agreement, Article 28
- National Agreement, Article 19
- Employee & Labor Relations Manual
- USPS Handbook, F-1

CHAPTER 24

THE ISSUE: FAILURE TO POST 204-B'S BID ASSIGNMENT AFTER 4 MONTH DETAIL

THE DEFINITION

The duty assignment of a clerk detailed to a nonbargaining unit position in excess of four months shall be declared vacant and shall be posted for bid.

THE ARGUMENT

When management details a bargaining unit employee to a 204-B position for more than four (4) months they have forfeited that employee's right to his bid assignment. The National Agreement requires that the 204-B's duty assignment be declared vacant and that it be posted for bid. PS Form 1723 controls when determining the length of the detail. If the employee comes back to the craft early, an amended Form 1723 should be completed. Management is obligated to provide the Union with copies of every Form 1723 for 204-B details. To the extent possible these copies should be provided in advance of the detail. The employee is prohibited from returning to the craft solely to circumvent this reposting requirement?

THE INTERVIEW(s)

The Supervisor

- How long has John been a 204-B?
- Why haven't you been providing the Union with all of his PS Forms 1723?
- Was it your understanding that John came back to the craft last week because he was getting close to the four (4) months which would have caused his job to be reposted?
- Who did you replace him with as an acting supervisor?
- Was there any particularly heavy mail volume or other pressing need why John was needed back in the craft?

- Did John remind you about his need to go back to the craft to protect his job or were you keeping track of the length of his detail?

- How long did you tell John he needed to stay in the craft in order to "break" his four (4) months to protect his job? Will he be returning to his 204-B assignment after that?

The 204-B

- Hi John. I guess it was pretty lucky that somebody noticed that you needed to get back in the craft in order to protect your bid. Were you keeping track or did somebody remind you?

- What did Supervisor Johnson tell you? Did she suggest how long you needed to stay in the craft before you returned to your 204-B assignment?

- Did you discuss this with anyone else in management?

- Was it your idea to come back or did Ms. Johnson suggest it?

- What did she say, exactly?

- Would it be fair to say then that the only reason you came back to the craft for Monday was to keep your bid from being posted?

THE DOCUMENTATION

- PS Forms 1723

- Clock rings (back up documentation - remember - PS Forms 1723 are controlling)

- 204-B statement or interview

- Witness statements or interviews

- Supervisor interviews or statements

- 204-B's bid duty assignment

- Seniority list

THE AGREEMENT

- National Agreement, Article 37.3.A.8

CHAPTER 25

THE ISSUE: REVERSION OF DUTY ASSIGNMENTT

THE DEFINITION

When a vacant Clerk Craft duty assignment is under consideration for reversion, the local Union President must be given an opportunity for input prior to a decision. The decision to revert or not to revert must be made within 28 days and if the duty assignment is reverted a notice must be posted advising of the action taken and the reasons why it was done.

THE ARGUMENT

While management has a right under the Agreement to revert vacant duty assignments that are no longer needed, the local Union President must be given an opportunity to provide input before a decision to revert is made. This must be a real opportunity for input, not a charade. That doesn't mean that management must always follow the Union's advise but they must listen to and consider the Union's input. If they do decide to revert a vacant duty assignment, management must then post a notice. That notice must indicate that the duty assignment is being reverted and state the reasons for this action.

THE INTERVIEW

- When did you decide to revert Job #12?
- Your letter to local Union President soliciting his input appears to be dated two (2) days after that. Was this just a courtesy to let him know what you were doing?
- Since you had made up your mind beforehand, there really wasn't anything the local President could have said that would have meant anything, was there?
- What specifically were your reasons for reverting this duty assignment?
- What date was the job reverted?

THE DOCUMENTATION

- Assignment change vacating position - showing effective date
- Notice to Union of consideration for reversion and solicitation of input
- Posted notice of reversion
- Local President's statement or interviews about input provided or efforts made to do so
- Supervisor interviews or statements
- PTF / casual workhours (time cards / clock rings) showing work continues to be done
- PTF / casual work schedules
- Witness statements or interviews
- Overtime records

THE AGREEMENT

- National Agreement, Article 37.3.A.2

CHAPTER 26

THE ISSUE: DENIAL OF BID TO PERMANENT LIGHT/LIMITED DUTY EMPLOYEE

THE DEFINITION

Handicapped employees are as interested in bidding as any other employee. The reasonable accommodation process is triggered each time an employee with a disability is under consideration for such an opportunity.

THE ARGUMENT

Management often tries to apply the so-called "Burrus Memo" (or 6 month medical documentation requirement which originated therein) to bids submitted by employees on permanent light/limited duty. This is not appropriate. It applies only to "temporary" light or limited duty employees. Provided that we can establish that the permanent light/limited duty employee is a "qualified handicapped" employee they are entitled to reasonable accommodation pursuant to Article 2 and the Rehabilitation Act. Handicapped employees are as interested in promotions, preferred bid assignments and conversion to FTR status as any other employee. The reasonable accommodation process is triggered each time an employee with a disability is under consideration for such an opportunity. We must prove that grievant is a "qualified handicapped" employee and that she can perform the "core duties" of the specific bid assignment, either with or without accommodation. We must show what accommodation would be necessary in order to permit her to perform these duties and that such accommodation would be reasonable. The burden is on the Employer to establish that such an accommodation would be unduly burdensome.

THE INTERVIEW

- Why was Paula denied her bid on the window clerk assignment?
- How familiar are you with Paula's medical condition and her restrictions?
- Who determined that those restrictions were severe enough to prevent Paula from working the window?
- I guess there really isn't much question that Paula is handicapped is there?

- What consideration did you give to perhaps modifying the job slightly so that Paula could do it even with her restrictions?
- Your main concern seems to be Paula's lifting restrictions isn't that right?
- Isn't it true that there always at least two window clerks working at Xerxes Station?
- Then it shouldn't really cause a big problem if Paula got assistance from the other clerk when necessary to lift the really heavy packages should it?
- What about maybe giving her a special cart of some type so she wouldn't have to lift the packages but could just slide them off the counter? What would that cost?
- What other alternatives did you consider?
- Why didn't you talk to Paula? Don't you think she might have had some good ideas about how she could possibly do this job?
- Did anyone prepare the Management Checklist on Reasonable Accommodation?
- Why not?

THE DOCUMENTATION

- Job Posting
- Bidders list / employee's bid card
- Seniority list
- Grievant's statement or interview
- Supervisor interviews or statements
- Medical documentation / restrictions
- Evidence as to handicapped status
- Accommodation checklist (EL-307) - if used

- Position description and qualification standard
- Current light/limited duty assignment
- Documentation or statements concerning other similarly situated employees provided or denied accommodation
- Specific suggestions from the employee as to accommodation believed to be needed

THE AGREEMENT

- National Agreement, Article 37
- National Agreement, Article 2
- National Agreement, Article 19
- USPS Handbook, EL-307

CHAPTER 27

THE ISSUE: 204-B WORKING BARGAINING UNIT OVERTIME IMMEDIATELY BEFORE OR IMMEDIATELY AFTER 204-B DETAIL

THE DEFINITION

Acting supervisors (204-B's) must not be used in lieu of bargaining-unit employees for the purpose of bargaining-unit overtime.

THE ARGUMENT

The parties have agreed numerous times at Step 4 that employees detailed to 204-B positions will not perform bargaining-unit overtime either immediately before or immediately after such detail unless all available bargaining-unit employees have been utilized. For purposes of determining the beginning and ending of the detail, the PS Form 1723 is controlling. Where a 204-B has been detailed for several weeks, they cannot work in the bargaining unit on their intervening off-days for overtime.

THE INTERVIEW

- Why did 204-B Jensen come back to the bargaining unit last Saturday?
- Did you complete an amended PS Form 1723? Was a copy given to the Union?
- Why didn't you maximize the OTDL before letting Jensen work overtime in the craft?

THE DOCUMENTATION

- PS Forms 1723
- Time cards/clock rings/ETC Report showing bargaining unit overtime for 204-B and availability of OTDL employees

- Overtime authorization (PS Form 1261)
- Witness statements or interviews
- Supervisor interviews or statements
- 204-B interview or statements
- Seniority list
- Overtime desired list
- Applicable qualification records

THE AGREEMENT

- National Agreement, Article 1.6
- National Agreement, Article 8.5
- National Agreement, Article 37.3.A.8