

ARTICLE 7.2. B/C

CROSSING CRAFTS IMPROPERLY



SENIOR ASSISTANT POSTMASTER GENERAL
EMPLOYEE AND LABOR RELATIONS GROUP
Washington, DC 20260

June 22, 1976

MEMORANDUM TO: Regional Postmasters General

SUBJECT: Utilization of Casual Employees

As a result of a number of grievances received by this office, it is necessary to reaffirm the responsibilities of the U. S. Postal Service pursuant to the provisions of the National Agreement regarding the utilization of casual employees. The provisions in Article VII, Section 1 B 1 of the 1975 National Agreement state in part, "during the course of a service week, the employer will make every effort to ensure that qualified and available part-time flexible employees are utilized at the straight time rate prior to assigning such work to casuals."

This provision requires that the employer make every effort to ensure that qualified and available part-time employees with flexible schedules are given priority in work assignments over casual employees. Exceptions to this priority could occur, for example, (a) if both the part-time flexible and the casual employee are needed at the same time, (b) where the utilization of a part-time flexible required overtime on any given day or where it is projected that the part-time flexible will otherwise be scheduled for 40 hours during the service week, or (c) if the part-time flexible employee is not qualified or immediately available when the work is needed to be performed.

Furthermore, in keeping with the intent of the National Agreement that casuals are to be utilized as a supplemental work force, every effort should be made based on individual circumstance to utilize part-time flexible employees across craft lines (see Article VII, Section 2) in lieu of utilizing casual employees.

Please ensure that local officials are made aware of these guidelines concerning the utilization of casual employees.


James V. P. Conway

cc: Regional Directors, E&LF
Mr. Bolger
Mr. Dorscy



OK 9
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EMPLOYEE AND LABOR RELATIONS GROUP

Washington, DC 20005

February 24, 1976

Mr. Ernest Andrews, Director
Industrial Relations
American Postal Workers Union
AFL-CIO
817 - 14th Street, N. W.
Washington, D. C. 20005

Re: Article VII, Section 1.B;
Casuals

Dear Mr. Andrews:

This is in response to your letter of February 11, 1976 concerning the utilization of Casuals. You indicate it is the position of the APWU that it is improper to utilize Casuals where career part-time flexibles are not working 40 hours per week.

Discussions on this subject during the course of bargaining for the 1975 Agreement resulted in the addition of certain language to Article VII, Section 1.B.1. This new contractual obligation does not preclude the utilization of Casuals where part-time flexible schedule employees are not working 40 hours per week. It does impose upon the Postal Service the obligation to make every effort to insure that qualified and available part-time flexible employees are utilized during the course of a service week at the straight time rate prior to assigning such work to Casuals.

Sincerely,

Dennis R. Heltzel

for Dennis R. Heltzel, Director
Office of Contract Analysis
Labor Relations Department



American Postal Workers Union, A.P.W.U.

817 14th STREET, N. W., WASHINGTON, D. C. 20005

WAP

February 11, 1976

Mr. Dennis Watzel
Director
Office of Contract Analysis
Labor Relations Department
U. S. Postal Service
Washington, D. C.

Dear Mr. Watzel:

This Union has been advised that casuals are being utilized in some offices where part-time flexible employees are not receiving 40 hours of work per week.

It is the position of the American Postal Workers Union that casuals constitute a supplement to the regular work force and that the use of casuals where career part-time flexible employees are not working 40 hours per week is improper. We do not believe that such utilization of casuals to the detriment of career employees was the intent of the negotiators.

I would appreciate your advising me of the official position of the Postal Service at your earliest convenience.

Sincerely yours,

Emmet Andrews, Director
Industrial Relations

EA/ac

Mr. William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO
1300 L Street, N.W.
Washington, DC 20005-4128

Re: H7C-NA-C 72
W. Burrus
Washington, DC 20005

Dear Mr. Burrus:

On March 9, 1990, we met to discuss the above-captioned case at the fourth step of our contractual grievance procedure.


The issue in this grievance is whether PTF employees may be assigned across craft lines without satisfying the limitations of Article 7.2 of the National Agreement.

During our discussion, we mutually agreed that the assignment of PTF employees across craft lines is controlled by the express language of Article 7.2 of the National Agreement as interpreted by national level arbitrators. We further agreed to fully and finally settle this grievance and close the case on this basis.


Please sign and return the enclosed copy of this letter indicating that the APWU concurs with this interpretation and as your acknowledgment of agreement to close this case.

Time limits were extended by mutual consent.

Sincerely,



Arthur Wilkinson
Grievance & Arbitration
Division



William Burrus
Executive Vice President
American Postal Workers
Union, AFL-CIO

DATE 4/24/90

APWU

set up step 4

American Postal Workers Union, AFL-CIO

1300 L Street, N.W., Washington, DC 20005

William Burrus
Executive Vice President
(202) 842-4246

February 12, 1990

Dear Mr. Mahon:

Pursuant to the provisions of the 1987 National Agreement the APWU initiates a step 4 grievance over the employer's interpretation of the right to assign PTF employees across craft lines without satisfying the expressed limitations of Article 7, Section 2.

Local managers are relying on regional arbitration decisions that have improperly determined that the use of casuals in a specific craft and work location satisfies the restrictions of Article 7, Section 2.

The American Postal Workers Union disagrees with this interpretation and request your decision.

Sincerely,

William Burrus
William Burrus
Executive Vice President

Joseph J. Mahon, Jr.
Asst. Postmaster General
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-4100

WB:rb

FEB 1990
Received



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

November 1, 1990

C. J. "Cliff" Guffey
Assistant Director
Clerk Division
(202) 842-4233

TO: Regional Coordinators &
National Business Agents

SUBJECT: Crossing Crafts Prior to Utilizing Casuals
In Another Craft.

Dear Fellow Officers:

National Executive Board

Moe Biler
President

William Burrus
Executive Vice President

Douglas C. Holtbrook
Secretary-Treasurer

Thomas A. Neill
Industrial Relations Director

Kenneth D. Wilson
Director, Clerk Division

Thomas K. Freeman, Jr.
Director, Maintenance Division

Donald A. Ross
Director, MVS Division

George N. McKeithen
Director, SDM Division

Norman L. Seward
Director, Mail Handler Division

Executive Vice President Bill Burrus recently settled National Case H7C-NA-C-72. This settlement reinforces that management is required to satisfy Article 7.2 before crossing crafts with a PTF even in 7.1.B.2 situations. We will also be required to meet that burden should we grieve the availability of a PTF in one of our crafts while casuals work in another craft.

Enclosed are: (1) Settlement of National Case 72, (2) 1976 Conway Memo and (3) 14 Arbitrations on this subject.

Fraternally,

C.J. 'Cliff' Guffey

Regional Coordinators

James P. Williams
Central Region

Philip C. Fleming, Jr.
Eastern Region

Elizabeth "Liz" Powell
Northeast Region

Archie Salisbury
Southern Region

Raydell R. Moore
Western Region

CJG:sec
opeiu #2
afl-cio

cc: Kenneth Wilson, Director
Clerk Division

Tom Neill, Director
Industrial Relations

RECEIVED
NOV 02 1990
DENVER REGIONAL OFFICE
APWU

Documentation/Remedy 7.2.B.C.

Work schedules, clock rings, or any other type documents which clearly demonstrates a cross-craft assignment to have taken place.

Any documentation available to disprove management's claims of justification for the assignment:

Insufficient Work

Leave records to determine employees taking A.L., L.W.O.P., etc.

Clock rings of PTFs to check for short work hours.

Overtime records (there should be no overtime).

Mail volume reports.

Exceptionally Heavy and Light

Light - All of the items Listed for "insufficient".

Exceptionally Heavy - Overtime records - "Everybody should be working O.T. if work load is exceptionally heavy. Heavy doesn't count!!

Mail volume reports.

Leave records.

Remedy:

Any grievance involving cross craft assignments requires compensation for the appropriate members of the craft which lost the work to another craft, at the appropriate overtime rate.

Management has been successful in cases where they can show that crossing crafts is the only way the work could be performed or where an "emergency" or unique and/or unforeseen circumstance occurred (Massey - S4V-3W-C-26023).

Management has not been successful where their inept scheduling has created the alleged justification for the assignment (Sherman - S4C-3S-C-43425).

Management may not invoke a claim of "past practice" to justify assigning across craft lines as past practice cannot serve to alter the clear and unambiguous language of 7.2.B. and/or C.

Finally, crossing crafts to avoid O.T. is never justified as stated by Bloch/Mittenthal and an unlimited number of regional arbitrators.

Available Awards

PTF Carrier to Clerk

Cohen	C8C-4M-C-26028	Ft. Dodge, IA
Seidman	C1C-4K-C-14132	St. Charles, MO
Scearce	S1C-3Q-C-5451	Metairie, LA
Dolson	C4C-4G-C-1890	Indianapolis, IN
Martin	C1C-4E-C-21318	Wooster, OH
Foster	S1C-3U-C-45492	Austin, TX
Foster	S1C-3W-C-17074	Ft. Meyers, FL
Grabb	C1C-4J-C-14540	Waukesha, WIS
Sherman	S4C-3S-C-43425	Ft. Myers, FL

Grievances - Article 7.2.B. and C.

A substantial number of arbitration awards exist which have addressed the various types of cross-craft assignments which occur. The principles involved in B. and C. are firmly established and recognized. Grievances involving this issue have basically been reduced to a "facts and circumstances" situation.

The initial burden of proof for the union is to prove that a cross-craft assignment took place. Once it has been established that the work in question is indeed that of our craft, the burden shifts to management to justify that assignment within the provisions of B and/or C, as interpreted by Bloch and Mittenthal. We then, of course have a burden to rebut their justification with evidence of our own to show that there was not insufficient work in the other craft or alternately that there was no exceptionally heavy work load in our craft while the other craft was experiencing a light work load at the same time.

The type of cross-craft assignments which seem to involve a large percentage of our arbitration awards on the subject are part-time flexible carriers working in the clerk craft and the crossing of occupational groups in the maintenance craft.

There are a number of awards addressing these type circumstances which are available through our office. A partial list follows.

In addressing the issue of PTF carrier to clerk work you should bear in mind that a PTF may not be assigned clerk work pursuant to 7.2.B. under the guise of providing them their "guarantee" of 2 or 4-hours per day. Part-time flexible carriers do not have a "basic work week" and they are not "guaranteed" 2 or 4-hours of clerk work!

Some caution should be exercised in addressing the issue of carrier to clerk in small offices where it is standard practice to use employees interchangeably. Experience teaches us that clerks do as much, or more, carrier work that vice-versa in small offices. If there are any questions regarding this issue at a specific installation inquiry should be made through our office.

Postal management will argue that the carrier job description and qualification standard contains language which allows carriers to perform clerk duties. This position has been soundly rejected by arbitrators. (Seidman - C1C-4K-C-14121; Foster - SIC-3W-C-17074; Dolson - C4C-4G-C-1890; Grabb - C1C-4J-C-14540)

The principles outlined by Bloch and Mittenthal are clear. In order to justify a cross-craft assignment, management must be able to demonstrate pursuant to B. that there was insufficient work for the employee or employees in their own assignment or that there was exceptionally heavy work in one group and light work in another at the same time pursuant to C.

Given this interpretation, the facts and circumstances pertaining to each incident becomes the basis for determining whether or not the assignment was in violation of the Agreement.

flexibility in the face of pressing circumstances.”

Arbitrator Bloch addresses both B. and C. by the following observation:

“Taken together, these provisions support the inference that Management’s right to cross craft lines is substantially limited. The exceptions to the requirement of observing the boundaries arise in situations that are not only unusual but also reasonably unforeseeable. There is no reason to find that the parties intended to give Management discretion to schedule across craft lines merely to maximize efficient personnel usage; this is not what the parties have bargained. That an assignment across craft lines might enable Management to avoid overtime in another group for example, is not, by itself, a contractually sound reason. It must be shown either that there was ‘insufficient work’ for the classification or, alternatively, that work was ‘exceptionally heavy’ in one occupational group and light, as well, in another.”

Arbitrator Mittenthal, in National Case #H8C-2F-C-7406 upholds the Bloch interpretation while specifically addressing the “same wage level” element.

“The principle seems clear. Where Management makes a cross-craft assignment, it must justify that assignment under the terms of VII-2-B or VII-2-C. If no such justification is provided, the cross-craft assignment is improper under the ‘inherent proscription...’ in VII-2. The Postal Service does not claim Arbitrator Bloch’s interpretation is incorrect. It has not asked me to modify or overrule his award.

However, the statement of this principle does not resolve the present dispute. The Mail Handler who was dumping sacks on the evening mini-tour on July 27, 1980, ran out of work after three hours. There was ‘insufficient’ work for him that day. That fact gave Management the right, under VII-2-B, to ‘assign the employee (here the Mail Handler) to any available work in the same wage level for which the employee is qualified...’ Plainly, more than one condition must be satisfied before a cross-craft assignment can be validated by VII-2-B, there must be not only (1) ‘insufficient work’ for the employee but also (2) other ‘available work’ (3) which he is ‘qualified to perform’ and (4) which is ‘in the same wage level’.”

Article 7, Section 2.B. & C.

The provisions of 7.2B allow management to assign full-time or part-time employees across craft lines on any given day or days in which there is insufficient work to keep the employee gainfully employed. That assignment must be to work in the same wage level.

This provision does not allow management to "create" insufficient work through intentionally inadequate staffing.

The provisions of 7.2.C. provides that when an exceptionally heavy work load occurs for one occupational group and there is at the same time a light workload in another occupational group, craft lines may be crossed.

This provision requires an exceptionally (note emphasis) heavy workload in one group with a light work load in another group at the same time (note emphasis). Both of these elements must be present at the same time in order to justify a cross-craft assignment from one occupational group to another. (There are no separate occupational groups for the clerk craft - a clerk is a clerk -

These provisions have been interpreted by National Arbitrators Bloch and Mittenthal. Those interpretations address both B. and C.

Arbitrator Bloch, in National Case #H8S-5F-C-8027, addresses the possibility pursuant to 7.2.B. of management creating insufficient work:

"Inherent in these two provisions, as indicated above, is the assumption that the qualifying conditions are reasonably unforeseeable or somehow unavoidable. To be sure, Management retains the right to schedule tasks to suit its needs on a given day. But the right to do this may not fairly be equated with the opportunity to, in essence, create 'insufficient' work through intentionally inadequate staffing. To so hold would be to allow Management to effectively cross-craft lines at will merely by scheduling work so as to create the triggering provisions of Subsections B and C. This would be an abuse of the reasonable intent of this language, which exists not to provide means by which the separation of crafts may be routinely ignored but rather to provide the employer with certain limited

overtime to affected clerks; see attachment #7.

Baldovin, Jr.

G87C-4G-C-91025373

February 23, 1995

Dispute on PTF carriers being regularly scheduled in advance to do clerk work. Management argued simultaneous scheduling and efficiency. Service also argued past practice. Arbitrator set aside management arguments and sustained grievance based on national award by Bloch and clear reading of Article 7.2.B. & C. Limited remedy based on fact circumstances; see attachment #8.

Mittenthal, H8C-2F-C-7406, DATED 8/23/82. Dispute went to management assigning a mail handler to distribution clerk work. On day in question, mail handler worked first three (3) hours as mail handler and last five (5) as clerk. Arbitrator sustained grievance relying on Bloch and practice of parties. Granted five (5) hours at the straight time rate as no overtime needed or scheduled on day in question; see attachment #4.

- ✓ Synopses of a variety of regional arbitration awards with full texts as attachments.

Foster

S1C-3W-C-17074

October 17, 1984

Dispute went to PTF letter carriers doing clerical work rather than using the ODL. Parties agreed heavy mail volume as during the Christmas season. No dispute PTF carriers qualified, same wage level, and available work on an exceptionally heavy work load day. Arbitrator sustained grievance as heavy work load in both crafts as seen through the use of overtime. Part of the limitation criteria is a light work load day. Didn't exist on the three (3) days in question. Language and equal amounts of overtime granted to ODL in clerk craft; see attachment #5.

Ames

W7C-5F-C-27965

October 22, 1993

Management temporarily assigned a letter carrier to AIS. Union argued clerk work. Management argued work not on any clerk bid. Work involved upgrading labels and cases, and inputting information into a computer. Arbitrator found work historically done by clerks. Data collection and entry duties clerical work. Sustained grievance and awarded compensation to senior qualified clerk; see attachment #6.

Stallworth

C0C-4U-C-5444, et al

November 17, 1994

Local settlement gave palletized mail distribution to the clerks. Later management used mail handlers to work the mail. Arbitrator upheld local settlement which gave work to clerks and required the conditions of Article 7.2.B. & C. be met before mail handlers could work this mail. Interesting to note no one argues same salary level. Awarded equal

Advocates

Crossing Crafts Improperly Article 7.2.B. & C.

Needs

- ✓ Remember to prove management violated Article 7 by improperly crossing crafts you need to address four (4) points:
 - 1) Available work in same wage level - Article 7.2.B.
 - 2) Employee must be qualified - Article 7.2.B.
 - 3) Gaining craft must be experiencing "heavy work load periods" - Article 7.2.C. (Remember no occupational groups in clerk craft for purposes of this dispute)
 - 4) Losing craft must be experiencing "light work load period".
- ✓ Excerpts from Article 7 analysis done by NBA's Kessler/Casillas, see attachment #1. Gives a good overview of what the language means, how it has been interpreted, and what you need to win, see attachment #1.
- ✓ Documentation from C. Guffey on crossing crafts prior to using casuals; includes pre-arb on case H7C-NA-C-72, attachment #2. Tells us contractual language under 7.2 requires qualification, same wage level, and light work load in own craft and heavy work in other craft (NALC). We would not be able to argue mail handlers as they are a different level.
- ✓ Two additional national cases go to this issue:

Block, A8-W-0656, 4/7/82. Dispute involved a cross craft assignment where management brought a PTF carrier over to Special Delivery rather than bringing a ODL-SDM in. Arbitrator found management's right to cross craft substantially limited (page 6). As normal day in special delivery craft and overtime day in letter carrier craft, assignment was improper. Granted ODL person 6.35 hours of overtime; see attachment #3.

THE DOCUMENTATION

- Job description of employees assigned across crafts, occupational groups or levels
 - Job description 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 (overtime level in losing craft)
- Clock rings or work hour summaries in gaining craft (overtime level in gaining craft)
 - 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

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 unusually heavy workload in the gaining craft.

THE ARGUMENT

The circumstances under which cross-craft or cross-occupational 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?

Issue Crossing Crafts Improperly

Article 7.2B & C

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Work schedule, clock rings (ETC), or other documentation showing cross craft assignment(s)	Proves cross craft assignment occurred. First step in proving violation is remembering four (4) part criteria: 1) same wage level 2) qualified 3) exceptionally heavy work load periods 4) light work load period
Witness(es) statement which tells us what happened on given day or days involving cross craft assignment(s)	Helps validate union contentions and brings specifics to the front. Possible witness if case goes to arbitration
Interview with appropriate supervisor or manager on why they assigned across craft lines	Ties down management's reason(s) for doing so. Stops building of management's case at later date. Union should ask if criteria of 7.2.B & C met and carefully write down response
Documents which show who scheduled and who worked - be sure to include all types of leave taken	Tells us if management had normal compliment or short handed
Volume reports which show heavy or light day	Remember Article 7.2.C says "exceptionally heavy work load periods"
Overtime records for both involved crafts, normally will be carrier to clerk	Be sure documentation ties to area left and place reassigned to
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point