



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

William Burrus
Executive Vice President
(202) 842-4246

September 19, 1997

Dear Percy:

Pursuant to our telephone conversation, following is the union's interpretation and application of the Memo's of Understanding regarding the right of the union to process a grievance on behalf of a former employee.

National Executive Board

Moe Biller
President

William Burrus
Executive Vice President

Douglas C. Holbrook
Secretary-Treasurer

Greg Bell
Industrial Relations Director

Robert L. Tunstall
Director, Clerk Division

James W. Lingberg
Director, Maintenance Division

Robert C. Pritchard
Director, MVS Division

George N. McKeithen
Director, SDM Division

The Memorandums in question (2) appear on pages 334 and 374P of the 1994 National Agreement and on page 88 of the CBR. The initial Memo was negotiated in 1981 as a result of an inquiry that I made protesting postal policy that all grievances on behalf of former employees were being declared moot and the Postal Service representatives refused to consider the merits of the grievances. My position was that grievances became the property of the union after appeal to Step 2 of the procedure and the right of the union to process grievances was unaffected by the employment status of a grievant. I argued that favorable disposition of a grievance would benefit the entire bargaining unit and the union could not be denied the right to process grievances. I alerted the Vice President of the NALC of the discussions and he joined in the signing of the final document.

Regional Coordinators

Leo F. Persails
Central Region

Jim Burke
Eastern Region

Elizabeth "Liz" Powell
Northeast Region

Terry Stapleton
Southern Region

Raydell R. Moore
Western Region

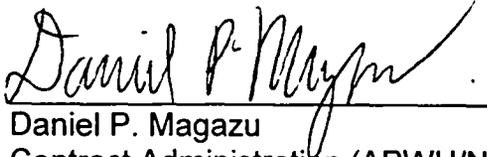
In 1990 the NALC appealed a grievance [#H7N-5P-C 1132] to the national level involving the interpretation of the 1981 Memo of Understanding. APWU was not notified of the hearing and did not participate in the arbitration. Arbitrator Mittenthal decided the case and provided a narrow interpretation of the Memo of Understanding. On page 7 of his decision he opined as following:

This Memorandum suggests that the parties recognized the need for a savings clause to prevent an employee's pre-separation grievances from being declared not arbitrable after his separation. The clear implication is that, absent such a clause, pre-separation grievances would not survive a separation. It should be emphasized that this savings feature applies only to separations attributable to "resignation, retirement, or death." A separation due to discharge, the situation in the present case, is not covered. If an employee's

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to settle this case in its entirety.

Time limits at Step 4 were extended by mutual consent.

Sincerely,



Daniel P. Magazu
Contract Administration (APWU/NPMHU)
Labor Relations



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

Date: 6-9-98

pre-discharge grievances are to survive his discharge, NALC must look somewhere else in the National Agreement to justify that result.

This narrow reading of the Memorandum was not consistent with the discussions that lead to the document, but because APWU was not a participant in the hearing, we could not offer this background. Notwithstanding our lack of involvement in the hearing, it is my belief that Mittenthal's ruling would survive challenge by APWU. He interpreted the language agreed to and while it may have been helpful for him to understand the range of the discussions, I doubt if an arbitrator will overrule his decision based on additional testimony.

Following receipt of the Mittenthal award, Tom Neil was involved in discussions over the void created by the decision. In 1991 agreement was reached and incorporated into the 1991 National Agreement recognizing the right of the union to process grievances for former employees provided the issue "is not related to the removal action." This Memorandum appears on page 88 of the CBR and page 374P of the 1994 National Agreement.

As a result of the two Memorandums and the national interpretative award, the union has the right to process post-removal grievances if:

- 1. The employee resigns from employment**
- 2. The employee retires**
- 3. The employee dies**
- 4. The grievance is unrelated to the employee's removal**

I hope that this clarifies the issue for you. With kind regards, I remain

Yours in union solidarity,

William Burrus
Executive Vice President

Percy Harrison, President
Chicago BMC
7500 West Roosevelt Rd
Forest Park, IL 60130

WB:rb



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

694c4pc98002394

William Burrus
Executive Vice President
(202) 842-4246

August 25, 1997

Dear Pete:

This is to initiate a step 4 over the employer's right to make "inquiries, either orally or in writing, of [an] applicant or of any other person, concerning arrest records, except where the arrest actually resulted in a criminal conviction, or where the charges are still pending".

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Western Region

My letter of June 26, 1997 requested the employer's interpretation of "the provisions cited above as permitting exceptions to the restrictions for obtaining arrest information and if so, what are those exceptions and their authority in published rules."

Your response of August 21, 1997 does not address the interpretative inquiry, but instead focuses on whether or not there was a violation in the case mentioned and continues by pointing out that my letter implies that the grievance involves a current postal employee while Section 313.331 deals with applicants for postal employment. While this observation is immaterial to the issue I raise, I refer you to the quoted section "applicant or of any other person". Perhaps in your haste to avoid the issue, you have overlooked that a current postal employee may be covered by "any other person".

In any event, I await the scheduling of a meeting that we can discuss the interpretive issue involved.

Sincerely,

William Burrus

Executive Vice President

Peter Bazylewicz, Manager
Grievance & Arbitration
475 L'Enfant Plaza, SW
Washington, DC 20260



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

Re: Q94C-4Q-C 98002394
Class Action
Washington, DC 20260-4140

JUN 1998
Reception
Office
L. ...
M...

Dear Bill:

On May 2, 1998, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance involves arrest records of applicants for postal employment.

During our discussion, we mutually agreed that the current policy of the Postal Service regarding this subject is described in ELM 313.33, which reads as follows:

313.331. No inquiries may be made, either orally or in writing, of the applicant or of any other person, concerning arrest records, except where the arrest actually resulted in a criminal conviction, or where the charges are still pending. In addition, when inquiring as to the conviction record of any applicant for employment from any person or agency, including law enforcement agencies, postal officials must state orally, or in writing, that:

It is not the policy of the U.S. Postal Service to inquire into the arrest records of applicants for employment, where the charges arising out of an arrest have been dismissed, there has been an acquittal, the proceedings have otherwise not resulted in a conviction, or where the record of such charges does not contain or reflect an actual criminal conviction of such charges. If possible, please exclude all such charges in the requested conviction record, except those still pending.