

**REGULAR ARBITRATION PANEL**

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In the Matter of the Arbitration ) GRIEVANT: Class Action  
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between ) POST OFFICE: Centre, Alabama  
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UNITED STATES POSTAL SERVICE ) CASE NO: H06C-4H-C 08240043  
 ) UNION NO: G-8C623  
and )  
 )  
AMERICAN POSTAL WORKERS UNION )  
AFL-CIO )  
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BEFORE: James J. Odom, Jr., ARBITRATOR

APPEARANCES:

For the U. S. Postal Service: Diana L. Bennett, Manager - Labor Relations  
Alabama District

For the Union: Billy Woods - National Business Agent

PLACE OF HEARING: Main Post Office - Gadsden, Alabama

DATE OF HEARING: January 5, 2010 - Briefs Received February 12, 2010

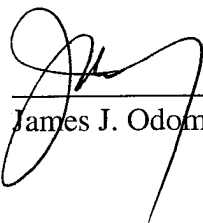
DATE OF AWARD: March 22, 2010

RELEVANT CONTRACT PROVISIONS: Article 1.6.B., National Agreement

CONTRACT YEAR: 2006-2010

TYPE OF GRIEVANCE: Contract

AWARD SUMMARY: Grievance contested Postmaster boxing mail on ground that doing so was outside her Postmaster description which included performing duties of distribution. Arbitrator found Union evidence shifted burden to Postal Service to prove boxing mail was distribution activity, and that the Service did not carry the burden. Postmaster is to cease and desist from boxing mail.

  
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James J. Odom, Jr., Arbitrator

## BACKGROUND

This is the arbitration of a May 23, 2008 class action grievance. The Union contends that the Postmaster at the Centre Alabama Post Office is violating Article 1.6 B. of the National Agreement on a continuing basis by performing bargaining unit work.

The grievance asserts that the Postmaster regularly boxes mail, works UBBM, Markup and Dispatch and gathers empty equipment. The Union contends that these duties fall outside the scope of the Postmaster's position description, which limits her performance of bargaining unit work to distribution tasks and window transactions.

In denying the grievance, Management took the position that the Centre Post Office is a Level 20 Office, and as such, its installation head is permitted to assist in bargaining unit work, provided the installation head does not increase the volume of such beyond that which previously had been performed by the installation head in that particular office. At Step 2, Management added that the Union had made no claim that the amount of bargaining unit work performed by the OIC in Centre had increased.

Here is how the Step 2 decision dealt with the issue of the *types* of work being performed by the OIC:

Boxing mail falls under LDC 44 - Box Section Distribution. Granted, post office boxes are a type of delivery service. However, the work does not fall under delivery. Otherwise, a delivery employee would box mail. This work falls under clerk box distribution.

UBBM, Mark-up and dispatch duties are customer service administrative duties.

The Union followed with Additions and Corrections. In them it took the position that when mail is placed into post office boxes by a member of the Clerk Craft, that employee is functioning as a *delivery* employee, and that there is no difference between a letter carrier placing mail into a mailbox or into an NDCBU/CBU unit at an apartment complex, and a clerk placing mail in a post office box.

**Relevant Contractual Provisions**

**Article 1**

**Union Recognition**

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**Section 6. Performance of Bargaining Union Work**

\* \* \*

B. In offices with less than 100 bargaining unit employees, supervisors are prohibited from performing bargaining unit work except as enumerated in Section 6.A.1 through 5 above or when the duties are included in the supervisor's position description.

**STD POSITION DESCRIPTION  
POSTMASTER EAS-20**

**Duties and Responsibilities**

\* \* \*

8. May personally handle window transactions and perform distribution tasks as the workload requires.

**ISSUE**

Did the Postmaster in Centre, Alabama violate Article 1.6.B. of the National Agreement by performing duties of boxing mail, UBBM, markup and gathering empty equipment? If so, what shall be the remedy?

**Stipulations**

- The work in dispute has been performed by the Postmaster at the Centre installation for years.
- The amount of time used by the Postmaster at the Centre Post Office to perform such functions as verification of Undeliverable Bulk Business Mail (UBBM), dispatch empty equipment, perform mark-up and nixie mail duties and dispatch functions is *de minimis*.

- There has been no increase in the amount of time in which the Postmaster at the Centre Post Office has performed bargaining unit work.

### **DISCUSSION**

The small Centre, Alabama Post Office employs three Clerk Craft employees, one Full-Time Regular and two Part-Time Flexible Clerks. There is no dispute that at the time of the grievance Postmaster Estra Reynolds performed duties of boxing mail, working UBBM, markup and dispatch, and gathering empty equipment. Neither is it disputed that she performed these duties from the beginning of the two-year tenure in her position, nor that her predecessor also performed these duties. Finally, the parties have stipulated that there has been no increase in the amount or volume of these duties performed by the Postmaster.

The question, then, in this arbitration, is whether the Postmaster has been performing these duties in violation of Article 1.6.B.

#### **Position of the Union**

The Union has built its position on the premise that Clerk Craft employees historically have performed Clerk Craft duties that encompass work which is outside the scope of *distribution tasks* or *window transactions*. From this base, the Union argues that not all duties assigned to the Clerk Craft fall within a position description that limits a postmaster's performance of work of the Clerk Craft to *distribution tasks* and *window transactions*. Once the premise is accepted, there can be no quarrel with the logic.

In its appeal to Step 2, the Union gave specific reasons to support its position that the bargaining unit tasks being performed by the Postmaster cannot accurately be classified as part of the *distribution* function. The support includes extensive excerpts from national arbitration awards that both parties recognize are authoritative sources for interpreting Article 1.6. B.<sup>1</sup> (References to these decisions will be in an abbreviated form.)

Here are excerpts from the Union's contentions regarding the correct category or classification of the contested categories of work being performed by the Postmaster:

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<sup>1</sup>Case # AC-NAT-5221(Sylvester Garrett, February 6, 1978); Case # Q98C-4Q-C 01238942 (Shaym Das, January 4, 2005); Case # A-C-N 6922 (Carlton Snow, July 3, 1990).

**Boxing Mail.** Citing PO-401 Handbook (Manual Distribution Operating Guidelines), the Union offers the definition of *distribution* as:

Mail sorted by address into machine bins, pigeonhole cases, trays, sacks or pouches to group pieces with a common destination for transportation to the post office of address.

The Union infers from this that the task of mail distribution deals with *preparing* the mail for boxing, but not the act of boxing the mail. Actually placing mail in the post office box, it says, is a *delivery* function, which is defined as:

The act of taking mail from the post office to the customer. The mail itself taken to the customer's business or residential deliver address or picked up at a post office--whether post office box, window or dock.

The Union asserts that the Postal Service regulations designate boxing mail as a *delivery* function, not a *distribution* task. It cites the Postal Operations Manual (POM), 141 Delivery Services: "This section concerns mail delivered by clerks at postal facilities. These types of delivery services . . . include post office box and caller service. . . ."

**Markup.** "Markup mail includes the processing of undeliverable mail that is either returned to sender or forwarded to the addressee." The Union contends that Markup mail has already progressed through the distribution process, and that mail carriers separate the forwarded mail into tubs and trays which clerks collect and prepare for dispatch to the P&DC. These are "mail prep" functions, it argues, and not a distribution task, because there is no separating of mail into a group for a common destination. Rather, "the mail is separated in order to prep for the respective distribution task that is performed at the P&DC."

**Dispatch.** "Function 4 Guidelines . . . identify this function as the 'Separation of collection mail, collection of screen line mail, customer deposited mail and dock acceptance.'" According to the Union, Dispatch is a "collection" or "mail prep" function, not a distribution task, which is performed at the P&DC.

**UBBM.** The Union states flatly that the process of reviewing postage to ensure that First Class mail or Periodicals are not discarded and to verify that there is no endorsement that precludes disposal does not include any form of distribution. "There is no 'distribution task' performed during this function."

**Empty Equipment.** Similar to its position regarding UBBM, the Union states that the function of collecting empty equipment does not involve the processing of mail. Such an activity is a housekeeping function, it says.

In sum, the Union position is that the Postal Service has unilaterally expanded the duties specified in the Centre Postmaster's position description beyond the limits of *distribution tasks* and *window transactions*.

### **Position of the Postal Service**

Management took the position at Step 2 that boxing mail falls under LDC 44 - Box Section Distribution. While conceding that the post office boxes were a type of delivery service, the work was *not* delivery. If it were, it said, a delivery employee would box mail; rather, the work falls under clerk box distribution. Management disposed of UBBM, markup and dispatch duties as customer service administrative duties, not one of which requires more than a *de minimis* amount of daily time. At Step 3, Management reiterated that the Postmaster had performed the tasks that the Union was objecting to for more than two years, and that there had been no claim or showing that the Postmaster had gone beyond the limits of the work that had been performed by prior postmasters at the facility.

Citing Sylvester Garrett, the Postal Service argued in its brief that position descriptions are not subject to precise or restrictive interpretation, due to the fact that, by design, they are composed of general language:<sup>2</sup>

... The Mail Handlers appear to assume that jurisdictional work claims are relatively easy to deal with by applying general language "appearing in established Key and Standard Position descriptions." This view is unrealistic. Job descriptions normally are intended only to reflect the significant requirements, duties, responsibilities, and working conditions of various jobs. . . .

Position (or job) descriptions in large enterprises, moreover, inevitably include general statements describing functions and responsibilities which either overlap or are closely similar to functions included in other position or job descriptions. The evidence here confirms that Postal Service operations in no way provide an exception to this generalization.

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<sup>2</sup>Case # AW-NAT- 5753 (April 2, 1975).

Relying again on the 1975 Garrett award, the Service argued that the parties never intended position descriptions to be considered a literal definition of the duties that a specific employee was to perform on a daily basis:

On this record, therefore, the Impartial Chairman has no doubt that the particular duties which now may be assigned to incumbents of given positions in a particular Post Office simply may reflect long established practice in that location.

Given this state of affairs, it would be an invitation to chaos for the Postal Service, or the Impartial Chairman, to undertake to transfer existing work assignments from the jurisdiction of one craft to another throughout the Postal Service, in reliance upon the general language appearing in Key and Standard Position Descriptions. . .

With regard to the positions taken by the Postal Service in its brief, here is what was said about the Union's reliance on the Das award:

The union in the instant case relies heavily on the DAS award, case number Q98C-4Q-C 01238942, where they cite only the award summary of the decision. On page 26, Arbitrator Das found:

The answer to this narrow and abstract issue is "yes", if there has been no reduction in bargaining unit employee hours, and assuming that in the case of a postmaster the duties fall within the scope of "window transactions" and "distribution tasks" specified in its position description. This issue does not address any increase in bargaining unit work performed by a supervisor, and a blanket answer cannot be provided for a situation where bargaining unit employee hours are reduced without a change in the amount of bargaining unit work done by a supervisor. **Moreover, such determinations as whether specific duties "historically" have been performed by a supervisor are to be made, to quote the Garrett Award, "in light of all relevant facts applicable to that particular installation". (Emphasis added)**

Based on the above, Arbitrator Das agrees with Garrett when he recognized the performance of "specific duties". While tasks such as boxing mail, performance of UBBM duties, dispatch, mark-up and empty equipment are not specifically defined in a Postmaster's job description, neither are they found specifically in a Sales and Service/Distribution Associate's position description. Neither Das, Snow or Garrett chose to spell out specific tasks contained in the scope of the distribution or window functions.

**New Argument and Authority Not Considered.** The Postal Service submitted argument and authority in and with its brief which the Union objected to on the ground that they were brought for the first time in this proceeding. Because the Service tendered no rebuttal and because I find the

Union's objection to be proper, I have sustained the objection. As a consequence, none of the materials or arguments which were the subject of the Union's objection will be considered.

### **Analysis and Decision**

The parties stipulated that the amount of time used by the Postmaster at the Centre Post Office to perform such functions as verification of Undeliverable Bulk Business Mail (UBBM), dispatch empty equipment, perform markup and nixie mail duties and dispatch functions is *de minimis*. This stipulation narrows the question to be decided to, "Does the Centre Postmaster's participation in the function of Boxing Mail constitute a violation of Article 1.6.B?"

The grievance is constructed on the premise that duties recognized to be those of the Clerk Craft go beyond those which are included in or fall under the individual categories of *distribution* and *window transactions*. The next step in the Union's syllogism is the assertion that boxing mail is a *delivery* function, and so could not be a work activity that is included within the *distribution* function. Thus, the Union concludes that when the Centre Postmaster boxes mail, she is performing bargaining unit work that is outside her position description, in violation of Article 1.6.B.

Thus capsuled, the Union's argument is logically very strong.<sup>3</sup> However, notwithstanding the attractiveness of the logic, I am not persuaded that it is consistent with the *Garrett* and *Das* Awards to reduce the Issue in this arbitration to an up or down determination whether boxing mail is a function of *distribution*, or of *delivery*.

Here is Arbitrator Das quoting Arbitrator Garrett:<sup>4</sup>

... To embrace such an [literal] interpretation would be to read 1-6-B as if written in a vacuum rather than in the context of an on-going collective bargaining relationship. Proper interpretation of such a key provision in a collective agreement *surely involves more than an exercise in semantics*. [emphasis supplied]

In interpreting the language of Article 1.6.B., the awards of both *Garrett* and *Das* give deference--especially in small offices--to that work that had been performed historically by the incumbents. Arbitrator Das:

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<sup>3</sup>The ultimate strength, of course, being contingent upon proof establishing that boxing mail is a function of distribution.

<sup>4</sup>Das, pp. 9-10.



In my view, Arbitrator Garrett's analysis necessarily starts from the pragmatic premise that existing position descriptions that included performance of bargaining unit duties encompass the work historically performed by the incumbent (s) of that position under the prevailing circumstances at a particular small office. In this sense, historical practice sets the baseline . . . .<sup>5</sup>

Arbitrator Das was critical of arbitral decisions which were restrictive in applying supervisory positions, and not attentive to the practice of a particular office.

. . . In my opinion, however, some of the decisions are inconsistent with the Garrett Award to the extent they purport to interpret and apply what they find to be ambiguously written supervisory position descriptions in a restrictive manner . . . without regard to historical practice at the particular office. Such decisions cannot be squared with the Garrett Award.<sup>6</sup>

Here is the final quote from Arbitrator Das' award, his restatement of the issue in his case:

. . . whether consistent with the exception in Article 1.6.B of the National Agreement, as interpreted in the 1978 Garrett Award . . . a supervisor at a small post office, whose position description includes performance of bargaining unit duties, may continue to perform those duties historically performed by a supervisor at that office on a daily, regular or routine basis, where there has been no shift or transfer of work or change in the amount of such duties performed by the supervisor.<sup>7</sup>

But in the next and final paragraph of his Award Summary Arbitrator Das conditions his affirmative answer with, "assuming that in the case of a postmaster the duties fall within the scope of 'window transactions' and 'distribution tasks' specified in its position description."

### **Conclusion**

The Union has presented sufficient evidence and argument that boxing mail falls outside the scope of *distribution* that shifted the burden of persuasion to Postal Service to present evidence that boxing mail does, in fact, fit within the function of distribution--and therefore in the position description of the Centre Postmaster. The Postal Service has failed in this regard. Given the

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<sup>5</sup>Das, p. 25.

<sup>6</sup>Das, p. 25.

<sup>7</sup>Das, p. 26.

allowable evidence before me, I have no choice but to find that during such time that the Postmaster boxes mail, she is performing bargaining unit work not sanctioned by her position description.

**AWARD**

The grievance is granted to the extent that the Centre Postmaster must cease and desist from boxing mail. Because of the absence of testimony quantifying the amount of time spent by the Postmaster boxing mail, no monetary award is made (the “Background” comment in the Step 2 appeal that she boxes mail “an hour a day,” is not evidence).