

Restricted Sick Leave

By Doug Blakely, National Business Agent

Postal management waivers between using the Restricted Sick Leave regulations and issuing discipline to try to correct attendance problems. Restricted Sick Leave only relates to sick leave and not other types of leave. Irregular attendance discipline relies on other absences including tardies, emergency leave requests and AWOL. When processing a Restricted Sick Leave grievance, first make sure that all the absences are for sick leave only.

Abuse of Sick Leave

There are two reasons an employee can be put on Restricted Sick Leave under the regulations spelled out in Part 513.37 of the Employee and Labor Relations Manual; Abuse and Excessive Use of sick leave. Abuse of sick leave can come in several forms. The most recognized is that of not being where you are supposed to be while on sick leave. Example: You have taken two hours to go across town for a dental appointment. You are seen working out at the YMCA. Management has evidence you were there and checks with your dentist only to determine that you never had a dental appointment. This is not only sick leave abuse, but in some rare instances, managers have attempted to charge employees with falsification of official documents and discharge employees. Stewards should recognize this tactic and argue that abuse is properly dealt with by the use of Restricted Sick Leave, not discipline.

The most common reason used by management to place employees on Restricted Sick Leave for abuse is that the employee used sick leave in conjunction with their non-scheduled days off so often that they have set a pattern. If an employee has eight absences for sick leave in four months, and seven of them are in conjunction with their days off, many managers consider that to be a pattern of use and charge the employee with abuse. It may or may not be. The steward has to look at all the factors involved. What are the employee's days off?" Are they fixed-consecutive? If so, 40% of the employee's days off are in conjunction with their non-scheduled day (NSD). If sick leave will fall in conjunction with NSD. The more days off in each instance of leave, the higher the likelihood, percentage-wise, that it will be in conjunction with NSD.

Look at each of those factors when evaluating the employee's pattern. If an employee has split days off, such as Sunday-Wednesday, the only day off that is not in conjunction with NSD is Friday. In such a case, management should expect that at least 80% (or more) of the employee's sick leave absences would be in conjunction with their NSD.

Whenever you have a grievance relating to abuse of sick leave, make sure you get the necessary documents to properly evaluate the grievance. You need all 3971's used in management's decision to issue the RSL, as well as the employee's 3972 and dates of any discussions or attendance reviews. If the employee has provided medical certification for any of those absences, those should be noted and included in your file insuring that the employee's medical information is kept private. If possible, have the employee write a short statement of the reasons for the absences cited by management. Also make a point of discussing any absences that may be related to an on-the-job injury.

Excessive Use Restrictions

The method for placing employees of RSL for excessive use is clearly spelled out in the ELM and requires two quarterly reviews of sick leave with the employee. Most supervisors don't want to take the time to follow the required steps so they improperly use the immediate placement on RSL for abuse, even though there is no evidence of abuse. Make sure you make this argument if it applies.

The Restricted Sick Leave letter should clearly state the reason for the restriction (i.e., abuse or excessive use). If it does not, point out this procedural defect at the initial stages of the grievance. When employees are placed on RSL improperly, the only way the grievant can get any remuneration for the improper act is by the remedy sought by the union. Stewards should ask for: All medical expenses paid by the employee who is required to get medical certification for absences while on Restricted Sick Leave, Mileage to and from the medical appointment, and for time spent going to, during and returning from the medical appointment. This time

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My Father The Union Buster

By Ben Crumpton, Window Clerk, St. Petersburg FL

My father was a very good and decent man. He was also a union buster. Many people would consider these two descriptions to be mutually exclusive, but it isn't as simple as that. Most things ultimately prove to be more complex than a casual glance would indicate.

My father was a plant superintendent for a factory that produced corrugated shipping containers (that's cardboard boxes to you and me). It employed about a thousand people and ran 24 hours a day. He was directly responsible for about 850 of these employees, as well as for production quotas, hiring and firing, and a myriad of other responsibilities. He was also the official "union buster."

The workers at the plant were not represented by a labor union, and the higher-ups liked it that way. Every couple of years, representatives from AFL-CIO would canvass at the plant trying to sell the employees on the idea of joining the union.

As a child, I remember these regular cycles of "union crises." It was my father's job to try to convince the workers they were better off without a union. During these periodic union campaigns, his normal 50-60 hour workweeks would often bulge to 80-90 hours, as he campaigned tirelessly against the union.

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would only be appropriate if that time was spent outside the sick leave hours (employee's normal work hours) at the overtime rate.

Make sure that the letter of Restricted Sick Leave does not expand on the medical certification requirements which already exist in the ELM. Some managers have told employees that they must see a doctor the same day they make the sick call or go to the emergency room immediately when they call in sick. These requirements are not appropriate, and local managers and postmasters are not empowered to change existing regulations that are issued at the headquarter's level without headquarter's permission in advance (see Chapter 3, ASM).

I remember him explaining to me the logic, he would use with them. He would tell them they already enjoyed excellent wages and benefits, which was true. Though non-union, the workers there were compensated on a par with any union shop. He would tell them they would have to pay union dues and follow union rules, which was also true. He would tell them that they were treated fairly and with respect, which was true as long as my father had a say in things. He said unions caused unnecessary disputes between workers and management, which is also often the case.

I found it difficult to argue against these points. The workers there were treated well, were paid well, and enjoyed excellent benefits. I grew up believing that unions were unnecessary and harmful. I was proud of my father for keeping unions out of that plant. In his 28 year career there, the employees consistently voted against union representation, due in large part to my father's efforts.

These were the beliefs I held when I was hired by the US Postal Service in 1985. I entered USPS with a firm determination not to join the union. It didn't take very long for me to change my mind. There were good reasons for my change of heart, and there were bad reasons. The bad reasons included the taunting of union members who called me "scab," "freeloader," and worse. I received at least one veiled threat that something might just happen to the cars of all of us "scabs."

As for the good reasons, I quickly realized that the management at the Post Office operated much differently than did the management at my father's plant. Here, they bullied, pushed, threatened, intimidated, and harassed the workers to the very limits of their ability to endure. The union fought for these mistreated members, and I saw many instances where someone's job was saved, or a disciplinary action was removed, thanks to the support of the union. I reluctantly joined.

During the course of my career at the Post Office, that decision has proven time and again to be the right choice for me. When I had a personal-