

**REGULAR ARBITRATION PANEL**

In the Matter of the Arbitration	)	
Between	)	<b>GRIEVANCE:</b> Class Action
	)	<b>POST OFFICE:</b> Bowling Green, Ohio
<b>UNITED STATES POSTAL SERVICE</b>	)	
And	)	<b>CASE Numbers:</b>
	)	<b>USPS:</b> C11N-4C-C 14276177
<b>NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO</b>	)	<b>NALC:</b> 948C13

**BEFORE:** Sherrie Rose Talmadge, Esq., ARBITRATOR

**APPEARANCES:**

<b>For the U.S. Postal Service:</b>	Kathleen M. Yun, Labor Relations Specialist Ken Botknecht, Technical Advisor
<b>For the NALC:</b>	Daniel Estep, Arbitration Advocate

<b>Place of Hearing:</b>	111 W. Washington, Bowling Green, Ohio
<b>Date(s) of Hearing:</b>	December 8, 2015
<b>Date of Briefs:</b>	January 19, 2016
<b>Date of Award:</b>	March 11, 2016
<b>Relevant Contract Provisions:</b>	Articles 3, 5, 15 and 19
<b>Date of Contract:</b>	2011-2016
<b>Type of Grievance:</b>	Contract (Redline Policy)

**AWARD SUMMARY**

Management violated Articles 3, 5, 15 and 19 of the National Agreement when it implemented the Eastern Area Operations Standard Operating Procedure, Redline Policy (EA SOP 7-14) at the Bowling Green Postal facility.

Management is to cease and desist the application of EA SOP 7-14 and to comply with the M-41 allowing letter carriers to return to the handling of PM undeliverable mail in accordance with M-41 Section 24. Accordingly, the grievance is sustained.



**Sherrie Rose Talmadge, Esq., Arbitrator**

**RECEIVED**

APR - 4 2016

**VICE PRESIDENT'S  
OFFICE  
NALC HEADQUARTERS**

## **STIPULATED ISSUE**

1. Did Management violate Articles 3, 5, 15 and 19 of the National Agreement when it implemented the Eastern Area Operations Standard Operating Procedure, Redline Policy (EA SOP 7-14)?
2. If so, what is the appropriate remedy?

## **CONTRACT PROVISIONS, MANUALS and HANDBOOKS**

### **M-41 Handbook, Carriers Duties and Responsibilities, 44 Undelivered Mail**

#### **441 Processing Undelivered Mail**

Follow procedures listed in part 24 to process forwardable and undeliverable mail (1) that you didn't process before leaving the office and/or (2) that you picked up on route. After processing, place this mail in throwback case, as explained in part 24.

#### **24 Undeliverable as Addressed (UAA) Mail**

##### **242 Procedures by Category**

##### **242.1 Letter-Type Mail**

##### **242.11 Casing**

242.111 Case removals to appropriate separation by size and type. Separations are COA's entry mail, machinable, and non-machinable.

242.112 Case removals to proper separation for mail pieces which are:

- a. Undeliverable As Addressed (forwarding order expired)
- b. Attempted, Not Known
- c. No Such Number/No Such Street
- d. Other Carrier Endorsed

##### **242.12 Bundling CPS Mail**

242.121 Withdraw mail in the separations.

242.122 Deposit in designated location by exit for transport to CFS.

### **M-39 Handbook,**

#### **117 Utilizing Work Area and Equipment**

##### **117.1 Workroom Floor Layout**

**k. Hold Mail.** Instruct the carrier to place hold mail in a central location only when space is not available at the carrier's case.

##### **127 Office Work When Carriers Return From Route**

The carrier unit manager must observe and direct carrier activity when carriers return from the route. Observe such things as:

- d. When carriers have ended their tour of duty, review the carrier work areas for curtailed mail not reported on Form 1571.

### **FINDINGS OF FACTS<sup>1</sup>**

This case concerns Management's implementation of SOP 7-14, Redline Policy, in December 2013 in Eastern Area Operations, specifically in Bowling Green, Ohio. Bowling Green is a college town in which carriers must deal with a large number of holds, forwards and "moved left no address" issues. Carriers often encounter names of customers throughout their route that no longer live at a particular address. Pursuant to M-41 Handbook carriers are instructed to use PS Form 3982's as a reference point when unfamiliar with customer removals and Handbook M-39 states that Management must instruct carriers to place all hold mail at the carrier's case.

Letter Carriers Thomas Steffen and Chad Kleman testified that prior to the issuance of the SOP 7-14, the long standing past practice at the Bowling Green facility for carriers returning from the street and completing all deliveries to return to their cases to properly sort undelivered mail in accordance with existing policies prior to placing it in the throwback case. This enabled carriers to verify any necessary undelivered mail upon return. The carrier cases are equipped with slots labeled for proper separation of undelivered mail which are to be used for both the morning and afternoon office duties. Carrier cases are also equipped with separations which are specifically for customer requested hold mail and temporary holds for customers who have moved and left no address. The carriers were responsible for handling all customer hold mail and ensuring its proper placement at their case.

The implementation of SOP 7-14 no longer allowed carriers, upon returning to the office after completing their routes, to take undelivered mail to their cases for handling and sorting.

#### **EA SOP 7-14, Redline Policy, states in part:**

##### **OBJECTIVE:**

To create a standardized framework encompassing carrier duties returning to the delivery unit upon completion of delivery assignments. The procedure is intended to clearly and concisely define the clearance process with an emphasis on the proper disposition of mail types by all returning carriers.

##### **SCOPE:**

The procedures contained in this SOP are mandatory for all Districts within the Eastern Area.

---

<sup>1</sup> At the hearing the parties had the opportunity to question the sworn witnesses under direct and cross examination, and present material documentary evidence. At the conclusion of the hearing the parties submitted post-hearing briefs on or about January 19, 2016.

**RESPONSIBLE ORGANIZATIONS:**

Districts are responsible for ensuring unit compliance with this SOP. Units are responsible for set-up and implementation of all practices outlines in the SOP.

\*\*\*\*

**Carrier responsibilities:**

- Unload and return vehicle to designated parking area. Scan the return to office MSP barcode and input ending mileage. Move to office and empty collected mail. If you have carried any routes other than your own, enter the route number and time spent on the route in EBR.

THE FOLLOWING PROCEDURES WILL TAKE PLACE WITHIN THE REDLINE AREA AND PRIOR TO CARRIER RETURNING TO THEIR CASES:

- Place the mail collected in designated separations.
  - Deposit UBBM Mail in the correct container
  - Any UAA mail with endorsements must be placed in the proper trays according to information on the PARS labels
  - Deposit Collected outgoing mail in proper separations.
- Return accountable items to the Accountable clerk for clearance. Return all equipment to its designated location. Ensure automation labels are removed form and disposed from DPS trays. Ensure that all equipment is empty and turned upside down.
- Report any new buildings, hazards or special instructions to your supervisor or manager.
- Deposit DPS errors in the 3M case in the designated slots provided (Mis-sent/mis-sequenced/mis-sorted), and record the numbers on the tracking sheet. Place undeliverable mail, after properly endorsing, in the RTS cage.
- Any mail that is returned from the street must be identified (dog, blocked, closed, etc.) with a completed, signed 1571 and placed in appropriate container. The 1571 must be signed by the carrier and a supervisor. Do not take any mail back to your case in the PM.
- End tour and leave premises.

Carriers Steffen and Kleman testified that as a result of the implementation of the new policy, the clerks return the mail to the cases. Moreover, the new police has affected the sanctity of the mail and reduced customer service. Kleman explained that under the new policy the PS Form 3982's, which are located at the carrier's case, used to document customer moves and notate whether or not undelivered first class or endorsed mail should be forwarded or returned to sender, cannot be accessed when the carriers return from their tour. Kleman also testified that he had been instructed and corrected multiple time about not returning his Nixie Cards, Dog Warning Cards, etc. to

Arbitration decision continued.

his case in the afternoon, and that this can cause a safety issue for carriers and poor service for customers.

Both Robert Girle, Postmaster at the Bowling Green Post Office at the time of the grievance, and Acting Supervisor Jill Schreiner testified that the implementation of the EA SOP 7-14 did not affect the carriers' wages or work hours. Schreiner also testified that, prior to the implementation of EA SOP 7-14, the end of the day routine was different for each carrier.

## **POSITIONS OF THE PARTIES**

### **UNION'S POSITION**

The Union contended that it has met its burden of proof in this case. The Employer argued that they have the right to "manage" the Service such as implementing SOP 7-14 in an effort to streamline the process of undelivered mail. However, Article 3 is not absolute and limits the rights of management which are subject to the provisions of the National Agreement.

The M-41 is incorporated into the national Agreement through Article 19. SOP 7-14 is in conflict with the National Agreement, specifically the M-41, Carriers' Duties and Responsibilities, and therefore it is improper and should be rescinded. Moreover, the undisputed past practice of the carriers returning to their case to perform the undeliverable mail processing also serves to clarify the M-41 contractual language. The M-41, Section 4, Office Time-Return, 441 Processing Undelivered Mail provide: "Follow procedures listed in part 24 to process forwardable and undelivered mail (1) that you didn't process before leaving the office and/or (2) that you picked up on the route. After processing, place this mail in throwback case, as explained in part 24."

The language of Section 441 instructs the carrier to process forwardable and undeliverable mail that is brought back from the street upon the carrier's return to the office. Section 24, a subsection of Section 2 of the M-41, titled "Office time- Preparation" pertains to morning casing processing procedures as well as the afternoon processing procedures per section 441. Section 24 cannot be interpreted as processing the mail at the carrier's case in the morning and have a different interpretation upon return from the street. Section 441 states: "After processing, place this mail in throwback case, as explained in part 24." This indicates a two step process. First you process the undeliverable mail per section 24 just as the carrier did in the morning, then the carrier is to "place this mail in the throwback case." These M-41 instructions cannot be followed by carriers under SOP 7-14 as it is necessary for them to return to their cases to properly

Arbitration decision continued.

process undelivered mail. Under SOP 7-14 carriers are not able to return to their case to properly reference PS Form 3982s and secure customer hold mail. Postal policy pursuant to M-41 was established which directs carriers to return to their case, process undelivered mail, and then take the mail to the proper location, i.e. throwback case. Section 441 states, "Office Time Return" discussing office time duties once a carrier returns. It states that carriers are to process undelivered mail at their cases during "Office Time-Return", not on the street, and placed in the throwback case as soon as they walk in the office, as management argued.

Furthermore, the intent of the M-39, K. Hold Mail was for carriers to return hold mail directly to their case with the only exception being a lack of space to properly store the hold mail. Under SOP 7-14 carriers are no longer allowed to return hold mail to their case, instead it is now being held at a central location and returned to the carriers' case in the morning by the clerk craft.

The Union has proven there is clear and unambiguous language that the employer must adhere to the language in Handbook M-41 that directs the employer to allow carriers to sort undelivered mail upon completion of their street duties. The SOP 7-14 directly affected the carriers terms and conditions of employment. The carriers took the hold mail back to the case prior to SOP 7-14 and after the change in policy the clerk craft returns the hold mail to the case. The procedures established in the Handbooks are the most effective means to process undelivered mail and the employees were trained to follow these procedures. The intent of the Service when developing these instruction was to ensure speedy, accurate processing of the mail upon return to the office and not delaying or compromising it, which has a direct impact on the carriers' terms and conditions of employment.

The Union has proven that the employer has violated the National Agreement by unilaterally changing the established duties of letter carrier in the Bowling Green Installation. The M-39 and M-41, incorporated in the National Agreement through Article 19, place specific instructions about how the afternoon office duties are to be performed by carriers. These handbooks must be followed and management may not institute policies or directives which are in conflict. The Union urged sustaining the grievance, and requested a cease and desist order in the application of SOP 7-14 and to direct compliance with the M-41 allowing carriers to return to the proper handling of PM undeliverable mail as they have in the past according to M-41 Section 24, or otherwise make the carriers whole.

### **POSTAL SERVICE POSITION**

The Union did not prove a violation of Articles 3, 5, 15 or 19 of the National Agreement through documentary evidence or witness testimony. To prove a violation of Article 5, the Union must establish a change of a valid past practice affecting wages, hours or working conditions. To establish a valid past practice the Union must prove that the practice includes clarity and consistency, longevity and repetition and acceptability. There was no clear explanation of an alleged past practice that existed for the carriers upon their return from the street prior to the implementation of the EA SOP. Acting Supervisor Schreiner presented unrebutted testimony that the carriers had different routines at the end of the day without any consistency. The Union did not bring any of the parties to the workroom floor to provide a clear picture of any equipment that they were describing or to demonstrate what the carriers did prior to, or after, the implementation of the EA SOP. Moreover, the Union did not prove through a preponderance of the evidence that the implementation of the EA SOP directly affected wages, work hours, or working conditions. The Management witnesses both testified that the implementation did not affect wages or work hours, which was not refuted by the Union. The Union did not provide evidence on how working conditions were affected. The Union did not prove the EA SOP directly affected wages, hours or working conditions of the employees.

The Union argued that Article 19 was violated in reference to M-39 and M-41. The Union contended that the district policy requires the city carriers to perform certain tasks "prior to the carrier returning to their cases". Specifically, the policy states that carriers must: move to office and empty collected mail, place mail in designated separations, return accountable items to the accountable clerk, complete a PS form 1571 for undelivered mail and take no mail back to the case in the afternoon. The Union provided no evidence to prove that the carriers have to return to their cases prior to performing the above tasks. A comparison of the M-41 against the EA SOP reflects that the carriers' duties are the same; the difference is that the duties are performed in the morning instead of the evening. The M-41 excerpts are merely guidelines of the varied duties that the carriers are to perform when they return from the street, not where they are to be performed. Article 3 gives management the right to determine the methods, means and personnel by which such operations are to be conducted. The Union did not provide a violation of Article 19.

Arbitration decision continued.

The witness testimony provided at arbitration was new evidence/new argument and had not been provided throughout the steps of the grievance process and should not be considered. The Union did not provide by a preponderance of the evidence that there as a violation of the National Agreement due to the implementation of the EA SOP. Therefore, the Service urged that the grievance be denied in its entirety.

### **DISCUSSION**

At issue is whether Management violated Articles 3, 5, 15 and 19 of the National Agreement when it implemented the Eastern Area Operations Standard Operating Procedure, Redline Policy (EA SOP 7-14). The Union met its burden of proving a violation of the National Agreement when Management implemented the EA SOP 7-14 which is in conflict with the language of the M-41 and M-39, and unilaterally changed an existing past practice.

The Service argued that in accordance with the Article 3, Management Rights Clause, it has the exclusive right “to maintain the efficiency of the operations entrusted to it” and “to determine the methods, means, and personnel by which such operations are to be conducted”. Pursuant to that authority, Management implemented the EA SOP 7-14 in an effort to streamline the process of undelivered mail.

However, Article 3 is limited by the express provisions of the National Agreement. The M-41 Handbook, Carriers Duties and Responsibilities, is incorporated into the National Agreement through Article 19. The language of the M-41, Section 4, Office Time-Return provides:

#### **441 Processing Undelivered Mail**

Follow procedures listed in part 24 to process forwardable and undeliverable mail (1) that you didn't process before leaving the office and/or (2) that you picked up on route. After processing, place this mail in throwback case, as explained in part 24.

Section 441 instructs carriers to process forwardable and undeliverable mail that is brought back from the street per Section 24. Section 24, a subsection of Section 2, Office Time-Preparation, applies to the morning (A.M.) casing processing procedures and afternoon (P.M.) processing procedures. In the morning carriers stand at their cases and case the non-deliverable mail into slots labeled “Undeliverable as addressed, Attempted, Not Known No Such Number/No Such Street and CFS”. After the carriers process the mail into the case separation, Section 242.121 states to “Withdraw mail in the separations” and Section 242.122 instructs the carriers to, “Deposit in designated location by the exit for transport to CFS”.



Arbitration decision continued.

Section 441, Office Time Return, which discusses the carrier duties upon returning to the office, states that carriers are to process undelivered mail at their case during "Office Time-Return", and then place this mail in the throwback case. The M-41 Handbook directs carriers, upon returning to the office, to return to their case, process undelivered mail and then take the mail to the throwback case. The Union witnesses testified that it has been the long standing past practice at the facility for carriers, upon returning to the office, to return to their case to process undelivered mail and then take the mail to the throwback case.

Under the SOP 7-14 the carriers are not able to return to their case to reference PS Form 3982's and secure customer hold mail. The SOP appears to conflict with Section 441 because the carriers are not being permitted to process the undeliverable mail at their cases, but rather must place the undeliverable mail in the throwback case as soon as they walk in the office. When Management unilaterally implemented the SOP 7-14, the change in procedure upon returning to the office affected the terms and conditions of the letter carriers' employment when they were no longer permitted to take the hold mail back to their cases, and instead the clerk craft was tasked with returning the hold mail to the carrier cases the next morning.

The M-39, Management of Delivery Services, K. Hold Mail states, "Instruct the carrier to place hold mail in a central location only when space is not available at the carrier's case". The language indicates the Service's intent for carriers to return hold mail directly to their case unless space is not available at the case to store the hold mail. Under SOP 7-14, carriers are no longer allowed to return hold mail to their case, rather it is being held at a central location and returned to the carriers' cases in the morning by the clerk craft.

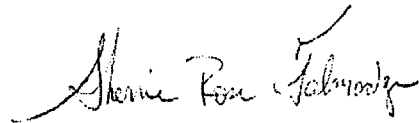
The Union has proven that the Service has violated the National Agreement by unilaterally changing the established duties of carriers in the Bowling Green Installation. The M-39 and M-41 Handbooks, both incorporated in the National Agreement through Article 19, established specific instructions for the carriers' performance of P.M. office duties. The unambiguous language of M-41 directs the Service to allow the carriers to sort undelivered mail upon completion of their street duties. Although well intentioned, Management, at the regional or local level, may not institute policies which are in conflict with the M-41 Handbook.

Arbitration decision continued.

**AWARD**

Management violated Articles 3, 5, 15 and 19 of the National Agreement when it implemented the Eastern Area Operations Standard Operating Procedure, Redline Policy (EA SOP 7-14) at the Bowling Green Postal facility. Management is to cease and desist the application of SOP 7-14 and to comply with the M-41 allowing letter carriers to return to the handling of PM undeliverable mail in accordance with M-41 Section 24. Accordingly, the grievance is sustained.

Respectfully submitted by:

A handwritten signature in cursive script that reads "Sherrie Rose Talmadge".

Sherrie Rose Talmadge, Arbitrator