

REGULAR ARBITRATION

In the Matter of the Arbitration	)	Grievant: Class Action
between	)	Post Office: Mystic, CT
United States Postal Service	)	Case No. B16N-4B-C 19429608
and	)	DRT No. 14-478128
National Association of Letter Carriers, AFL-CIO	)	Branch No. 7-10-19

BEFORE: James R. Collins, Arbitrator

APPEARANCES:

For the U.S. Postal Service: Joseph Covelluzzi

For the Union: George Laham

Place of Hearing: Mystic, CT

Date of Hearing: December 3, 2019

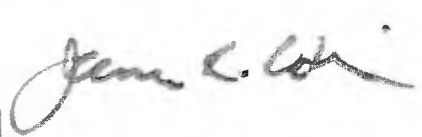
AWARD: The grievance is granted.

Date of Award: January 2, 2020

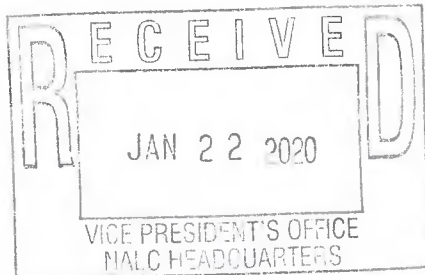
PANEL: NALC Region 14/USPS Northeast Area Regular Panel

Award Summary

The grievance is granted. Management violated Articles 3, 5, and 19 of the National Agreement, including section 122.1 of the M-39 Handbook and the National Labor Relations Act, when they unilaterally changed Letter Carrier start times on 08/24/2019.



James R. Collins



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Richard J. DiCecca, NBA  
NALC - New England Region

**Issue<sup>1</sup>**

Did Management violate Articles 3, 5, and 19 of the National Agreement, including section 122.1 of the M-39 Handbook and the National Labor Relations Act, when they unilaterally changed Letter Carrier start times on 08/24/2019? If so, what would the remedy be?

***Relevant Contract and Handbook Provisions***

**ARTICLE 3. MANAGEMENT RIGHTS**

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

- C. To maintain the efficiency of the operations entrusted to it
- D. To determine the methods, means, and personnel by which such operations are to be conducted

**ARTICLE 5. PROHIBITION OF UNILATERAL ACTION**

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act, which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

**ARTICLE 19. HANDBOOKS AND MANUALS**

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement....

**Handbook M-39, Section 122.1, Establishing Schedules**

- 122.11. Consider the following factors in establishing schedules:
- a. Schedule carriers to report before 6 a.m. only when absolutely necessary.
  - b. Fix schedules to coincide with receipt and dispatch of mail. At least 80 percent of the carriers' daily mail to be cased should be on or at their cases when they report for work.
  - c. Schedule carriers by groups. Form groups of carriers who make the same number of delivery trips and whose office time is approximately the same.
  - d. Generally, schedule carriers of the same group to begin, leave, return, and end at the same time.
  - e. Schedule so that delivery to customers should be approximately the same time each day.
  - f. Make a permanent schedule change when it is apparent that one or more days' mail volume varies to where it is causing late leaving.
  - g. Schedule carriers' nonwork days in accordance with the National Agreement.

**Summary of the Evidence**

On Saturday, August 17, 2019, Valerie Clark, Mystic Postmaster for the past six years, notified Charles Pendola, Mystic NALC Steward, that, effective August 24, 2019, the start time for Mystic letter carriers would change from 7:30 am to 8:00 am. Steward Pendola testified that,

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<sup>1</sup> At hearing, the parties stipulated that the issue would be as stated in the Step B Decision.

in response, he told PM Clark that this was a unilateral change that needed to be discussed; that PM Clark responded that she would set up a meeting; and, that she never did so. Steward Pendola further testified that PM Clark does not work on Saturdays and had called him by phone to inform him of this change; that he has served as the Union's Formal A representative at Mystic for the past twelve years; and, that he has never had a Formal A meeting with PM Clark.

The record shows that letter carriers at the Mystic PO had a 7:30 am start time for at least twenty years, prior to August 24, 2019.

PM Clark testified that the change was necessary due to so many letter carriers waiting for their mail, on stand-by time, at the start of day; and, that Management had relied on observation and reviewing TACS clock rings in making this determination. These TACS clock rings were for the five months from May 2019 to August 2019.

Steward Pendola testified that the excessive stand-by time was seasonal and did not occur during the rest of the year.

On Saturday, August 24, 2019, the Mystic letter carriers began their tours at 8 am, as directed by PM Clark.

On September 10, Supervisor Wayde Collins met with Steward Pendola at Informal Step A to discuss the grievance, without any resolution. Supervisor Collins informed PM Clark that the Union had filed a grievance. On September 19, the Connecticut DRT received the grievance. On September 24, the DRT decided to impasse the grievance. The Union then moved the matter to arbitration.

### **Positions of the Parties**

#### Union

The Union contends that Management violated Articles 3, 5, and 19 of the National Agreement when they unilaterally changed letter carrier start times on August 24, 2019. The Union argues that Management made no attempt to discuss or negotiate this unilateral decision with the Union before effectuating the change. In addition, the Union contends that the TACS period relied on by Management in making the change was not representative of the full year, since it was limited to months when stand-by time has always been higher.

#### Management

Management contends that they did not violate the National Agreement when they changed the start time of the Mystic CT carriers on August 24, 2019. Management takes the position that they have the exclusive right under Article 3 to control unnecessary costs, protect

the Service, and maintain the efficiency of operations; that Management identified inefficiencies in the morning's operations and corrected them; and that Management had a viable business reason to change the letter carrier start time at the Mystic Post Office from 7:30 am to 8 am. In addition, Management argues that the Union's Formal A representative violated Article 15.2 of the National Agreement by failing to provide his written appeal, via PS Form 8190, to PM Clark.

### **Discussion**

As a preliminary matter, I do not find persuasive the Management's argument that the Union's Formal A representative failed to provide his written appeal to PM Clark, in violation of Article 15.2, as he had never met with PM Clark at Formal A during the six years that she has worked at Mystic and as Supervisor Collins had notified PM Clark of the Union's grievance shortly after the Union filed the grievance.

Turning to the merits of this case, while Management has the management right under Article 3C to adjust hours of work in order to maintain the efficiency of the operations entrusted to it, this right is subject to other provisions of the National Agreement, including Article 5, Prohibition of Unilateral Action. In this case, the evidence in the record clearly shows that Management acted unilaterally in changing the start time of the Mystic PO's letter carriers. Such action violated Section 8(d) of the National Labor Relations Act, as changing the carriers' start time obviously affected the carriers' hours of work and as Management was making the change unilaterally. The circumstances here were especially aggravating since Mystic carriers had been starting work at 7:30 am for decades, and the change was to take effect just one week after the carriers were notified of the change by PM Clark. Moreover, Management offered no compelling reason why they needed to act in such haste.

Although the case file contains five months of TACS clock rings showing carriers on stand-by time, waiting for mail to be sorted, I credit Steward Pendola's uncontroverted testimony that stand-by time varies seasonally and that the other seven months of the year would not have shown excessive stand-by time to this extent. Among other issues that could have been discussed and negotiated with the Union had Management not acted unilaterally, this fact issue could, and should, have been addressed and resolved prior to any change in the letter carriers' start time.

Accordingly, I conclude that Management violated Articles 3, 5, and 19 of the National Agreement, including section 122.1 of the M-39 Handbook and the National Labor Relations Act, when they unilaterally changed Letter Carrier start times on 08/24/2019. The remedy is that carrier start times in the Mystic Post Office shall be restored to 7:30 am, effective

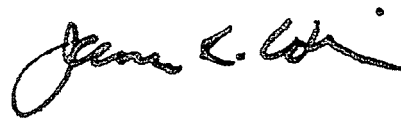
Arbitration Decision (cont'd)

immediately; and, that Management shall cease and desist from future such violations of the National Agreement.

**AWARD**

The grievance is granted.

Carrier start times in the Mystic Post Office shall be restored to 7:30 am, effective immediately. Management shall cease and desist from future such violations of the National Agreement.

A handwritten signature in black ink, appearing to read "James R. Collins". The signature is fluid and cursive, with a prominent loop at the end.

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James R. Collins