

REGIONAL ARBITRATION PANEL

In the Matter of Arbitration)	Grievant: Class Action
Between)	Post Office: Marietta, Georgia 30060
United States Postal Service)	USPS No.: K16N-4K-C 17701866
And)	Branch No.: C170928060
National Association of Letter Carriers,)	09-431271

BEFORE: Jo Ann Nixon, Arbitrator

APPEARANCES:

For the U.S. Postal Service: Charlene Thompson (Kevin Cook, TA)

For the National Association of Letter Carriers: Gregg Dixon

Place of Hearing: 257 Lawrence St., Marietta, GA 30060

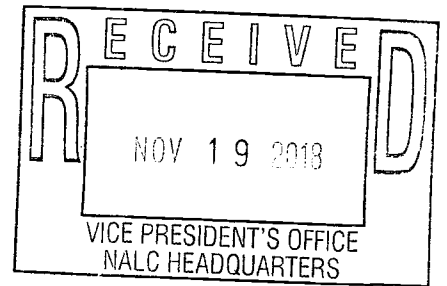
Date of Hearing: September 28, 2018

Date of Award: October 26, 2018

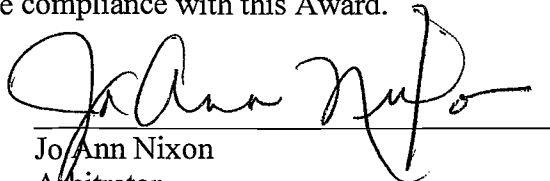
Relevant Contract Provision: Articles 19

Contract Year: 2011-2016

Type of Grievance: Contract



AWARD: The grievance is sustained. Management shall cease and desist violating the National Agreement and institute new procedures (in accordance with the National Agreement) for handling residual mail at the Marietta GA. Post Office. Management shall meet with a Union Official within the next 30 days to discuss the implementation of the new procedures. This Arbitrator shall retain jurisdiction to ensure compliance with this Award.



 Jo Ann Nixon
 Arbitrator

Kenneth R. Gibbs, Jr., NALC
National Business Agent

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I. ISSUE (s)

Did Management violate Article 19 of the National Agreement by not allowing carriers to case insufficient address and out of sequence mail pulled out by machine during Delivery Point Sequencing of mail? If so, what is the appropriate remedy?

II. STIPULATIONS

The parties agreed the following documents are to be considered as exhibits:

1. The Joint Contract Administration Manual between the US Postal Service & the National Association of Letter Carriers-JCAM (Joint Exhibit No. 1)
2. A packet of information documenting the grievance (Joint Exhibit No. 2)

III. RELEVANT CONTRACT PROVISIONS

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, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

IV. BACKGROUND

This grievance was initiated by the National Association of Letter Carriers (NALC) and is before the Arbitrator for decision pursuant to the National Collective Bargaining Agreement between the parties. The hearing was held on September 28, 2018, 2018 at the Marietta, Ga. Post Office located at 257 Lawrence St., Marietta, GA. 30060

V. FACTS

Management at the Marietta Post Office has allowed "insufficient address" and "out of sequence mail" with "secondary numbers" to be placed for delivery with Delivery Point Sequence (DPS) mail, in violation of the National Agreement. Management has recognized this practice as a violation and agreed to stop the practice immediately by implementing procedures consistent with the National Agreement.

VI. UNION'S POSITION

The Union contended that the issue in the case at bar is very straightforward and involves concise contract language which Management has not denied. They asserted that Management requested an opportunity to correct the violation, and the Union granted that opportunity but the violation was never corrected.

The Union argued that Management could have agreed to settle this clear violation at Formal Step A, Step B or at the Regional level, yet they did not. According to the Union, Management finally verbally offered to resolve the grievance a few days before arbitration but did not want to make that resolution citable. The Union stated that they are seeking a citable decision through arbitration.

It was the Union's position that there are three (3) simple facts that are the basis of the instant case:

- 1.) Delivery Point Sequence (DPS) is one bundle of mail in delivery point sequence.
- 2.) Residual mail is any mail that is not in DPS order.
- 3.) Residual mail is not DPS mail and it must be cased.

According to the Union the definition of DPS is found in a National Level agreement (M-01153-JX2-Page 16) entitled "Questions and Answers Concerning the September 1992 Memorandums" and states in the answer to Question 69 (JX-2 Page 18):

DPS mail is one bundle of mail in delivery point sequence. Mail that must be collated before delivery is not considered DPS mail. The number of dispatches is irrelevant.

The Union stated that Residual Mail is any mail that is not in DPS order, and the same National Level agreement defines Residual Mail as:

Residual mail is any mail that is not in DPS order once a delivery unit starts receiving DPS mail.

The Union contended that Residual mail is not DPS mail and it must be cased and cited Handbook M-41 at section 121.11 (JX-2, Page 22) in support of their position:

M-41

121.11 Route or case all classes of mail (exception, DPS mail will be cased only when management requires) in sequence of delivery along one or more established routes (see exhibit 121.11 for maximum time allowances). The

accurate and speedy routing of mail is one of the most important duties of a carrier; you must be proficient at this task.

According to the Union, in M-01246 the National Level parties agreed the DPS procedures cannot be obviated. It states in relevant part:

The established DPS implementation procedures are mandatory and cannot be obviated by calling mail in delivery point sequence “enhanced two pass” or by some other term. The Postal Service will immediately end such practices when they are brought to its attention. **(Emphasis added)**

The Union argued that although Management stipulated to the violation, the issue is not yet fully corrected and it was a blatant violation of clear contract language, therefore the Arbitrator should award not only a cease and desist order for the clear violations but should also award a compensatory award to deter future violations. They further argued that Management knew they were wrong but waited for an Arbitrator to order them to correct the violation. The Union asserted that Management could have fixed the problem immediately but chose to force the Union into Arbitration over a case they could not win. The Union requested that the Arbitrator sustain the grievance and issue an award appropriate to the blatant violations.

VII. MANAGEMENT’S POSITION

Management in the instant case stipulated to the violation alleged by the Union but contended that the Union’s request for remedy has been fulfilled so therefore the issue is moot.

According to Management, the Union requested a remedy on PS Form 8190 Section 19A which stated: ***“Cease and desist from placing insufficiently addressed mail and out-of-sequenced mail with secondary numbers in with (DPS) Delivery Point Sequence mail. Remove the listed addresses included in this file from the sort plan and place with 896 mail or residual mail for carriers to review and case in sequence each day to avoid any further delay in delivery. Or, whatever the Step B Team or an arbitrator deems appropriate”.***

Management cited the Union’s contentions and the Step B decision in further support of the fact that the Union’s requested remedy was to cease and desist placing residual mail in DPS and allowing the Carriers to case such mail. Management argued that they have honored the Union’s request and the instant grievance should be denied.

VII. DISCUSSION

As of the date of hearing in the instant case, there was no dispute remaining between the parties regarding the Union's allegations about how residual mail should be handled at the Marietta Post Office.

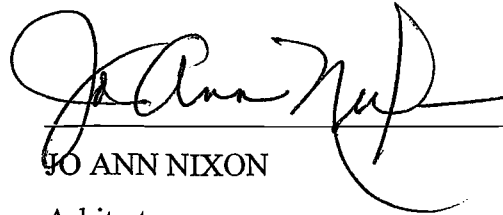
Management in the instant case stipulated to a violation of the National Agreement at Marietta; however, Management contended that the issue had been corrected. The Union contended that while Management has recognized the problem there needs to be a different procedure implemented to handle the residual mail (insufficient address", "out of sequence" etc..), and their requested remedy therefore has not been fully addressed. The Union also requested that this Arbitrator provide a remedy consistent with Management's blatant disregard for adhering to the National Agreement in regards to the handling of this residual mail.

Based on the evidence of record and the contentions of the parties, as well as the stipulation by Management regarding their acknowledgement of the contract violation the following will be my award:

Management at the Marietta Post Office, having recognized that the current practice for handling "insufficient address" and "out of sequence" mail with "secondary numbers" was done in violation of the National Agreement, they shall "cease and desist" that practice immediately and implement procedures consistent with the National Agreement. This "residual" mail shall be placed in a manner which will allow carriers to sort this mail at his/her case. As requested by Management, they shall have thirty (30) days from the date of this award to implement the new process. Management shall also meet with a member of the Union within the next 30 days to discuss the implementation procedures. This arbitrator will retain jurisdiction in this dispute to ensure that Management remains diligent in its efforts to correct the violation.

AWARD

The grievance is sustained. Management shall cease and desist violating the National Agreement and institute new procedures (in accordance with the National Agreement) for handling residual mail at the Marietta GA. Post Office. Management shall meet with a Union Official within the next 30 days to discuss the implementation of the new procedures. This Arbitrator shall retain jurisdiction to ensure compliance with this Award.



JO ANN NIXON
Arbitrator

New Iberia, Louisiana

October 26, 2018