

REGIONAL ARBITRATION PANEL-AMENDED

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In the Matter of Arbitration)	Grievant: Class Action
)	
Between)	Post Office: Deland, FL
)	
United States Postal Service)	USPS No.: G16N-4G-C 20114958
)	
And)	Union No.: 25910320
)	
National Association of Letter Carriers,)	
_____)	

BEFORE: Glenda M. August, Arbitrator

APPEARANCES:

For the U.S. Postal Service Robin Cameron

For the National Association of Letter Carriers Greg Dixon

Place of Hearing: 240 W. New York Ave., Deland, FL 32720

Date of Hearing: November 20, 2020

Date of Award: December 30, 2020

Relevant Contract Provision: Articles 15 & 19

Contract Year: 2016 - 2019

Type of Grievance: Contract

AWARD: The instant grievance is sustained. Management violated the National Agreement, specifically the M-01306, and M-01153, when they failed to remove residual mail from the DPS, which the parties have agreed require casing in office. The Service will "cease and desist" including "residual mail" in the DPS trays at the Deland, FL., Post Office Installation. Management shall work with (AMS) and In-Plant Support to correct the residual mail issues in the DPS. This Arbitrator will retain jurisdiction to ensure compliance.

Glenda M. August

Glenda M. August
Arbitrator

I. ISSUE (s)

Did Management violate Articles 15 and 19 of the National Agreement (NA) by allowing “residual” mail/secondary address mail in the DPS? If so, what is the appropriate remedy?

II. STIPULATIONS

The parties stipulated that the Union witnesses, if called, would provide the same contents in testimony as provided in their statements provided in the Joint Exhibit 2.

III. RELEVANT CONTRACT PROVISIONS

**ARTICLE 15
GRIEVANCE-ARBITRATION PROCEDURE**

Section 1. Definition A grievance is defined as a dispute, difference, disagreement or complaint between the parties related to wages, hours, and conditions of employment. A grievance shall include, but is not limited to, the complaint of an employee or of the Union which involves the interpretation, application of, or compliance with the provisions of this Agreement or any local Memorandum of Understanding not in conflict with this Agreement.

**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.

III. FACTS

The Union alleged that Management in the Deland, Florida Post Office, violated the National Agreement by allowing “residual” mail/secondary address mail in the DPS and is requesting a “cease and desist” order be issued to Management. Management disputed the Union’s position on what mail is considered residual mail and what is considered DPS.

The parties have submitted this matter to the undersigned Arbitrator for decision in accordance with the 2016-2019 National Agreement between the United States Postal Service and the National Association of Letter Carriers.

IV. UNION'S CONTENTIONS

The Union contended that the dispute in the instant case is straightforward and involves very precise contract language which was negotiated prior to the implementation of automated or Delivery Point Sequence (DPS) mail. It was the position of the Union that this case involves a negotiated provision or rule which states that only mail that is in delivery point sequence can be part of the DPS mail.

The Union asserted that the evidence of record proved that Management violated Articles 15 and 19 of the National Agreement, as well as National Level Settlement Agreements, M-01306, M-01153, and M-01246 by leaving "residual mail" in the DPS mail. According to the Union there are four (4) simple facts that set the basis of this grievance:

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

It was the Union's position that the definition of DPS mail is found in the National Level Memorandum of Understanding, M-01153, entitled "Questions and Answers Concerning the September 1992 Memorandums".

The Union argued that M-01153, in the answer to question 69, states that: ***"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."*** They further argued that the same National Level memo defines Residual Mail: M-01153-***"Residual mail is any mail that is not in DPS order once a delivery unit starts receiving DPS mail."*** According to the Union, any mail that cannot be put in delivery point sequence is by definition "residual mail". They noted that simply sorting mail to a primary street address is not in delivery point sequence when that address also involves secondary addresses like building numbers and suite numbers. The Union cited Handbook M-41, Section 121.11 which states:

Handbook 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.

It was the Union's contention that based on the agreement of the parties, "residual mail is any mail that is not in DPS order, *is not DPS mail*, and it must be cased.

According to the Union, Management violated the National Agreement, specifically at Article 19, via the M-41, Section 121.11, when they do not allow Carriers to route or case all classes of mail except DPS mail. The Union noted that the M-39 states that Carriers should "case residual letters:

M-39--121.11

b. On Delivery Point Sequence (DPS Routes, the proper use of all authorized equipment is required. The manager will select the most appropriate work method for each route from the following:

(1) Case residual letters in the same separations with vertically cased flat mail, pull down and carry as a single bundle.

(2) Case residual letter mail separately into delivery sequence order, pull down and carry as a composite (third) bundle.

The Union noted that the same language is found in M-1306, which simply reiterates that residual mail must be cased in one of two methods. They contended that considering these clear definitions, the Union maintained that Management admitted their violation when in their contentions the Service stated that "the amount of residual mail in the DPS is minimal". The Union argued that Management's admissions in their contentions proved the existence of a violation which requires a remedy.

The Union argued that the Step B Management representative also supported the Union's position when he wrote in part (JX-2, Page 5, Paragraph 5): "Residual mail is mail that cannot be sorted by automated equipment into DPS." The Union maintained that they agree with that statement and reiterate their position that "all residual mail must be cased." They noted that in the Step B Teams Decision on Impasse they wrote:

The Step B Team has considered all arguments and evidence in the case file and any of its material may be cited in the event of arbitration.

The Union further argued that Delivery Point Sequence means what it says and is clearly defined in the National Agreement between the parties. They asserted that Management's position would

mean that for a particular address, with 10 buildings and 16 suites per building, a Carrier would have to collate the mail for 160 individual addresses while on the street. The Union contended that collating mail on the street is not acceptable under the National Agreement and cannot be seen as efficient by any stretch of the imagination. They further contended that if for any reason mail cannot be placed into delivery point sequence, or if it requires any type of collation on the street, it is residual mail and it must not be placed or left in the DPS; the Union maintained that “residual mail” must be cased.

The parties at the National Level have agreed that DPS procedures cannot be avoided or hindered, stated the Union; they noted that in M-01246, the national parties agreed:

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 Management in this case is clearly attempting to obviate the DPS implementation procedures by changing the terms and claiming their local processes override the National Agreements. The Union further argued that those National Agreements are as binding today on the parties as the day they were signed; they noted that none of the Agreements were renegotiated or replaced and the Union has every right to enforce these binding National Level Agreements.

The Union cited the contention of Management’s Formal A representative who wrote (JX-2, Page31):

Union is wanting Management to remove mail from the DPS for Apartments and Businesses that come in the DPS in front of the address with no secondary addresses. These pieces are undeliverable pieces that default to the beginning of the address. These pieces are either insufficient addresses or not read by the machines when sorted.

It was the position of the Union that Management here admitted that this residual mail cannot be placed in delivery point sequence, but it is still being left in the DPS. The Union reiterated that “residual mail” must be cased and *not* left in the DPS for collation on the street. The Union further cited Management’s Formal A representative’s contentions on page 33 of the Joint Exhibit 2 where they further admitted to a violation and stated:

Management argues, that the amount of residual mail in the DPS is minimal. It is not business sense to handle the mail twice from DPS and the fact that this MO is

from 1992 when the DPS came on board. Volume from then to now has drastically dropped.

The Union asserted that the aforementioned argument could have been made at anytime over the past 27 years since the volume of mail has been decreasing over that entire period; however, the National parties agreed that residual mail is not DPS and it must be cased, whether it is one piece of residual or 500 pieces of residual mail. It was the opinion of the Union that the parties would have included in the original Agreement, any such caveats as suggested by Management, and noted that they had the opportunity to renegotiate the language of the Agreement during the past 27 years. According to the Union, Management did not make any effort to renegotiate the terms of the numerous Agreements, or make changes to the M-39 or M-41; thus, any arguments for any caveats at this time, should be rejected.

The Union contended that page 33 of the Joint Exhibit 2 contained another admission of a violation by Management's Formal A Representative, where he wrote:

Management disagrees with Unions statement that sequencing mail on the street is much more inefficient than casing it in delivery order in the office. First of all, residual mail is not sequence in the street and casing in the office does not put it in delivery order.

The Union asserted that the Service's contentions admit that Carriers are collating or sorting residual mail on the street; they argued that although Management can disagree about the efficiency of doing so, that does not change the agreement between the parties that "residual mail must be cased. The Union again cited page 33 of the Joint Exhibit 2, where the Service's Formal A Representative also stated; "Mail in the DPS defaulting in front of the DPS is handled per the M-41 section 131.36 and follow Managements instructions. According to the Union, based on the evidence in the record, there is no dispute that residual mail is being collated by carriers on the street in Deland, Florida in violation of the clear language of the National Agreement. They requested that Management be issued a "cease and desist" order.

It was the contention of the Union that there are numerous terms used to refer to "residual mail", such as 896 mail, S99 mail, or M Record mail; however, they noted that the only terminology that is important is that it is all "residual mail as defined by the Agreement of the national parties. The Union further contended that if mail is not in delivery point sequence order,

it is residual mail; they argued that if the mail requires any type of sorting or collating while on the street, it is residual mail and it must be cased. According to the Union, the violations which Management admitted to in their contentions, have a substantial impact on route evaluations and adjustments. The Union asserted that Carriers are not given office time credit for casing the residual mail that is improperly and intentionally being left in the DPS.

In addition to its being a clear violation for Management to leave residual mail in the DPS, the Union contended that collating mail on the street is not only inefficient, but it impedes effective delivery. According to the Union, this fact is supported by their witnesses, who gave a clear picture of how residual mail shows up in the DPS, and requires sorting and collating while on the street. The Union argued that the testimony of those Carriers, and Management's own acknowledgements made in their Formal A contentions, are proof of the violations that they have alleged in this case.

Finally, the Union maintained that at the crux of the instant case are the four (4) simple facts that they asserted were the basis of this grievance:

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

The Union further asserted that the parties clearly defined what Delivery Point Sequence mail is and they also clearly defined what residual mail is. It was the Union's argument that DPS is not simply an identifier for trays of automated mail; they contended that **Delivery Point Sequence** is a contractual requirement. The Union further maintained that the parties made it clear that residual mail must be cased; they contended that the definitions have remained unchanged, and the evidence of this case demonstrated that there has been a clear violation of the terms of Agreement. Based on the evidence of record, as well as their arguments and contentions, the Union requested that the instant grievance be sustained and their requested remedy be awarded.

V. MANAGEMENT'S CONTENTIONS

It was Management's position that the Union has not proven a violation of the National Agreement in this case. The Service maintained the Union has offered numerous contentions but the grievance file lacks any substantive documentary evidence in support of their allegations. Management contended that the file lacks a single piece of mail to support the Union's position.

Management argued that in the Deland, Florida Post Office, there is a fundamental misunderstanding from the Union on what constitutes as residual mail. They contended that “residual” mail is mail that cannot be read by the Delivery Bar Code Sorter (DBCS machine). According to the Service, this mail is rejected by the machine after completion of the presort sequence, and residual mail lacks the volume set by standard to require or permit preparation to a particular destination.

The Service maintained that “residual mail” is different from sector segment, high rise, or 896 sort plans. They contended that the Union is claiming that mail lacking a secondary address or not in order by secondary address is residual. However, the Service argued, the DBCS machine has sorted the mail by destination or sector segment and is at the beginning of delivery point sequence for the primary address by destination. According to Management, if the mail was residual mail it would not be in the DPS, because the machine would not be able to read and sort it by destination. The Service asserted that the mail in question, was read and sorted by the zip code plus four destination, since the addresses are central point delivery or sector segment where delivery to several addresses can be achieved at one delivery point; such as a neighborhood delivery, or collection box unit known as a CBU where the Carrier can access several individual compartments at one time.

It was the position of the Service that the grievance file in this case lacked any substantive evidence from the Union which demonstrated that Carriers are required to collate mail to deliver; in fact, Management contended that the Union did not provide even one single piece of mail which would prove a violation. The Service offered the Postal Service’s definition of collate as: “To combine or merge two or more sets of sequence mail together into one bundle while maintain the sequence of delivery. The Service further offered the testimony of the Deland Postmaster who averred that during Route Inspections, Carriers are not collating the mail to deliver. Management cited the Union’s witness statement on page 16 of the Joint Exhibit 2 who stated: “Sorts? Small CBU’s, I just Deliver”.

Management argued that the Postal Service is not required to be at 100% delivery sequence order in DPS; they cited Chapter 4 in the “Building Our Future by Working Together” booklet (JX-4), which states that Management sets the targeted goal. They further argued that the Union’s request to case the mail they claim is residual mail in DPS would have no different result then how

it is carrier and delivered to the street. According to the Service, this mail would still be out of order for those blocked addresses, since the case is set up by sections, and not set up for apartments or business addresses with secondary address numbers.

Finally, Management argued that the Union's request for remedy is punitive and lacks any reason to make the NALC whole, since they failed to show any harm to the Union or its membership. Management further argued that there was no extreme or willful misconduct that would support an award of punitive damages. The Service asserted that the Union failed to establish a violation, and failed to prove at least prima facie evidence of a violation, in order to shift the burden to Management. Based on the evidence of record, or lack thereof, the Service requested that the instant grievance be denied in its entirety.

VI. DISCUSSION AND OPINION

The nature of the dispute between the parties in this case is focused around the definition of "residual" mail in the automated environment, now found in delivery units around the country. The Union alleged that the national parties have set a clear definition for "residual mail"; they further alleged that Management, in their contentions, admitted that Carriers in the Deland, Florida Post Office are currently handling residual mail on the street, in violation of the National Agreement. The fact of the matter is, the definition of "residual mail" is not so clearly defined by the multitude of documents included in the grievance file which refer to this type of mail.

According to the Union, Carriers are collating residual mail on the street, yet the Step 4 Question and Answers (M-01153) defines collating as putting together bundles of mail, both of which are in delivery order. That document, in Question 69, which was cited by the Union, references the receipt of more than one dispatch of DPS mail to a delivery unit, and the parties clarified that "Mail that must be collated before delivery is not considered DPS mail." Additionally, the answer to Question 64 in the same document states that residual mail is any mail that is not in DPS order once the delivery unit begins receiving DPS mail. This would indicate to this Arbitrator, that this would be any mail that was sent to the Unit outside of the DPS; maybe even mail that was rejected by the sorter as explained in Management's arguments.

The Union stated that there are numerous terms for the mail at issue in this case, but the key here is to define what the parties' expectation was for this particular type of mail. In order to

accomplish this task, we must take into consideration, the guidance provided by the M-39, M-41 and the Agreements reached by the parties in M-1306 (Building Our Future by Working Together), and M-01153 (Questions and Answers Concerning the September 1992 Memorandums). This Arbitrator considered the totality of the Agreements offered as Joint Exhibits to this grievance. In the M-1306, page 44 addresses the two DPS Work Methods Authorized and lists as “**The Problem**”-DPS and *residual* letter mail. The parties explained in that document that:

When delivery point sequencing is implemented, some letter mail will be sequenced by machines and **other, residual letters** will require casing. Letter carriers will have to adopt work methods to handle the residual letters.

- A. Casing residual letters with the flats and carrying the combined flats/residual mail as a single bundle and carrying the DPS letters as a second bundle.
- B. Casing and pulling down residual letter mail separately, and carrying it separately as a third bundle.

The Union’s allegations of a violation in this case, referred to letters that were included in the DPS, which would have been “sequenced” by machines; this is apparently not what the parties regarded as “residual mail” in this document. **However, Management, in their contentions stated:**

Union is wanting Management to remove mail from the DPS for Apartments and Businesses that come in the DPS in front of the address with no secondary addresses. These pieces are undeliverable pieces that default to the beginning of the address. These pieces are either insufficient addresses or not read by the machines when sorted.

The M-11053, in its answer to Question 64 states that “residual mail” is any mail that is not in DPS order once the delivery unit begins receiving DPS mail. The mail at issue in this case *is* received in the DPS mail, thus, it is not clear whether the parties in their answer to question 64, are referring to the apartment type mail the Union is questioning, when they refer to mail not in DPS order. The language included in the two referenced Step 4 Agreements do not specifically address mail with secondary addresses; nor do they specifically state how apartment mail, or mail destined for businesses with one address and suite numbers, should be handled. In Question 60, of the same document (M-11053) the following question was asked and answered:

Q-60 If the target percentage is 60%, do the carriers case the mail (DPS letters) until the 60% is reached or do they take the mail to the street with the selected method?

- A. **After managers are satisfied with the quality of the DPS mail received by the carriers, the carrier will stop casing the DPS mail and effect delivery using the selected work method.** The target percentage relates to when routes may be adjusted in response to DPS implementation.

The answer to Question 60 refers back to the M-1306, where work methods are provided to handle the “residual” mail which was not “sequenced” by machines. The limited definitions provided in each of the Agreements cited, demonstrated that the mail at issue in this case, would likely be determined to be DPS mail since it arrives in the DPS; not the “residual” mail referred to in the referenced agreements.

In support of their position the Union also cited Handbook M-41, Section 121.11, to define residual mail and the requirement that this mail be cased; the M-41 states:

Handbook 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.

The Union also noted that the M-39 states that Carriers should “**case residual letters**”:

M-39--121.11

b. On Delivery Point Sequence (DPS) Routes, the proper use of all authorized equipment is required. The manager will select the most appropriate work method for each route from the following:

- (1) Case residual letters in the same separations with vertically cased flat mail, pull down and carry as a single bundle.
- (2) Case residual letter mail separately into delivery sequence order, pull down and carry as a composite (third) bundle.

Although the M-39 and M-41 provided guidance on the requirement for casing residual mail, the issue still rests with the identification of that “residual mail”. Based on the evidence provided in the instant grievance, the parties have not included clear language to determine that apartment mail and business mail destined for suite numbers at the same address, **which are included in the DPS**, would be classified as “residual” mail. What is described in the instant case is mail that requires that carrier place the pieces in actual delivery sequence, such as by Apartment number, or suite number; but apparently this mail *is* located at the correct point of delivery into a centralized mail

receptacle or in close proximity to the delivery stop. The Union is requesting that this mail is left out of the DPS by some other means so that they can case the mail in office.

The Union and Management both offered the decision of Arbitrator Christopher E. Miles, in case number G16N-4G-C 19205484, a case similar to the one at bar, which originated in the Decatur, Alabama Post Office. In that case, **Management stipulated to a violation** and Arbitrator Miles concluded:

This class action grievance was filed by the Union to protest the inclusion of secondary address mail that is not in delivery order, or “residual mail”, in the Delivery Point Sequence (DPS) trays at the Decatur, Alabama installation. As such, the secondary address mail must be collated by the Carriers on the street before delivery. According to the National Level Agreement, M-01153, and the “Questions and Answers concerning the September 1992 memorandums,” it is stated in answer to Question 69 that “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.” In addition, in M-01153, residual mail is defined in answer to Question 64 and provides that “residual mail is any mail that is not in DPS order once a delivery unit starts receiving DPS mail.” In Section 121.11 in the Handbook M-41, it indicates that mail that is not in DPS must be case. In addition, the Handbook M-39 at Section 121.11b provides that residual letter mail is to be cased separately into delivery sequenced order. Thus, the record is clear that 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, and 3) residual mail is not DPS mail and it must be cased.

In this regard, the Postal Service confirmed at this hearing that the above-cited provisions have not been complied with at the Decatur Post Office. It has confirmed that it will work with the Address Management Services (AMS) and In-Plant Support in order to correct the situation. As the result, the issue for resolution is the appropriate remedy for the violation of the National Level Agreements and the provisions of the Handbooks incorporated into the Agreement via Article 19.

Arbitrator Miles, found for the Union and sustained the aforementioned grievance, based on **Management’s acknowledgement of a violation**. Similarly, in another case offered by the Union, Arbitrator JoAnn Nixon, reviewed a related case (K16N-4K-C 17701866) in which **Management also stipulated to a violation**. Both cases were sustained by the Arbitrator and Management was given a “cease and desist” order.

The instant case differs from the two cited cases, in that there was **no stipulation by Management in Deland, Florida, that there had been a violation of the Agreements between**

the parties, but the type of mail at issue was clearly the same as described by the Union in the cases cited. In the cited cases, Management acknowledged the allegations were about “residual mail”, in this case there was no such acknowledgement, thus, this case hinged on defining the subject mail. The Union provided statements from carriers that demonstrated that they incurred additional street time to “collate” this mail on the street, albeit, Management contended that the mail was located at the front of all mail destined for that same delivery point. The Service further asserted that the mail was delivered to one mail receptacle with multiple deliveries (such as a CBU). The fact that Management acknowledged that this mail defaults to the front of the address clearly indicates that it can be directed to some other default or residual mail tray for casing. Management also acknowledged that there was a minimal amount of “residual” mail included in the DPS.

The fact of the matter is that based on the cited arbitral decisions, some members of Management have already recognized this issue in other offices, that this secondary address mail would need to be cased in delivery order and is, or should be designated as “residual mail”; the Service, in those offices, has apparently promised to work to correct the problem. In Arbitrator Miles decision, he referred to Management’s confirmation at the Arbitration hearing that they would engage the assistance of Address Management Services (AMS) and In-Plant Support in order to correct the situation. This Arbitrator agrees with the recommendation of Arbitrator Miles and Management in the cited case.

Thus, based on the evidence of record, and testimony at hearing, the instant grievance is sustained. Management violated the National Agreement, specifically the M-01306, and M-01153, when they failed to remove residual mail from the DPS; mail that the parties have agreed require casing in office. The Service will “cease and desist” including “residual mail” in the DPS trays at the Deland, FL., Post Office Installation. Management shall work with (AMS) and In-Plant Support to correct the residual mail issues in the DPS. This Arbitrator will retain jurisdiction to ensure compliance.

AWARD

The instant grievance is sustained. Management violated the National Agreement, specifically the M-01306, and M-01153, when they failed to remove residual mail from the DPS, which the parties have agreed require casing in office. The Service will “cease and desist” the inclusion of “residual mail” in the DPS trays at the Deland, FL., Post Office Installation. Management shall work with (AMS) and In-Plant Support to correct the residual mail issues in the DPS. This Arbitrator will retain jurisdiction to ensure compliance.

Glenda M. August

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Arbitrator

December 30, 2020

New Iberia, LA