

FROM A TO ARBITRATION

EPISODE 33: ARTICLE 31 INFORMATION. SHORT BUT OH SO SWEET



TYING IT ALL TOGETHER

- FINISHING UP ON ARTICLE 16 BY GETTING INTO ARTICLE 31
- ARTICLE 17 AND ARTICLE 31 GO HAND IN HAND. ALWAYS
- NEW AND NEWER SHOP STEWARDS NEED TO UNDERSTAND HOW THESE ARTICLE ALL WORK TOGETHER WHEN YOU ARE LOOKING AT DISCIPLINE AND NOT RECEIVING ANY OR JUST SOME OF THE INFORMATION THAT YOU REQUESTED ON YOUR INFORMATION REQUEST
- LET'S START WITH YOUR ISSUE STATEMENTS, YOU CAN HAVE ONE ISSUE STATEMENT OR TWO, DEPENDING ON WHAT IS GOING ON IN THE GRIEVANCE

ISSUE STATEMENTS

- WHEN MANAGEMENT FAILED TO PROVIDE THE UNION WITH DOCUMENTATION=
 - DID MANAGEMENT VIOLATE ARTICLES 17 AND 31 OF THE NATIONAL AGREEMENT WHEN THEY FAILED TO PROVIDE THE UNION WITH IT'S REQUESTED INFORMATION, AND IF SO, WHAT IS THE PROPER REMEDY?
- WHEN YOU HAVE A DISCIPLINE CASE=
 - DID MANAGEMENT VIOLATE ARTICLE 16 AND 19, VIA THE M-39 HANDBOOK SECTION 115, WHEN THEY ISSUED COREY WALTON A LETTER OF WARNING FOR FAILURE TO FOLLOW INSTRUCTIONS AND
 - DID MANAGEMENT VIOLATE ARTICLES 17 AND 31 OF THE NATIONAL AGREEMENT WHEN THEY FAILED TO PROVIDE THE UNION WITH IT'S REQUESTED INFORMATION, AND IF SO, WHAT IS THE PROPER REMEDY?
 - THIS IS AN EXAMPLE OF A DOUBLE ISSUE STATEMENT

MAKING SURE IT'S IN THE FILE

- WHEN AN ARBITRATION ADVOCATE SEES THAT THERE IS AN ISSUE STATEMENT THAT CONTAINS ARTICLE 17 AND 31, THEY ARE GOING TO DESTROY THE OTHER SIDE WITH THAT
- SHOP STEWARDS MAKE SURE THAT YOU HAVE THOSE IN YOUR ISSUE STATEMENT IF YOU DID NOT GET EVEN JUST ONE PIECE OF INFORMATION THAT YOU REQUESTED, PUT IT IN YOUR CONTENTIONS AND DO A STATEMENT ON WHAT YOU REQUESTED AND WHY IT WAS IMPORTANT TO THE GRIEVANCE.
- INFORMAL A ESPECIALLY MAKE SURE YOU ADD THESE ARTICLES WHEN YOU ARE SENDING THE GRIEVANCE TO MET AT FORMAL A LEVEL

GETTING INTO ARTICLE 31 IN THE JCAM

- ARTICLE 31.3 INFORMATION

- THE EMPLOYER WILL MAKE AVAILABLE FOR INSPECTION BY THE UNION ALL RELEVANT INFORMATION NECESSARY FOR COLLECTIVE BARGAINING OR THE ENFORCEMENT, ADMINISTRATION OR INTERPRETATION OF THIS AGREEMENT, INCLUDING INFORMATION NECESSARY TO DETERMINE WHETHER TO FILE OR TO CONTINUE THE PROCESSING OF A GRIEVANCE UNDER THIS AGREEMENT. UPON THE REQUEST OF THE UNION, THE EMPLOYER WILL FURNISH SUCH INFORMATION, PROVIDED, HOWEVER, THAT THE EMPLOYER MAY REQUIRE THE UNION TO REIMBURSE THE USPS FOR ANY COSTS REASONABLY INCURRED IN OBTAINING THE INFORMATION. REQUESTS FOR INFORMATION RELATING TO PURELY LOCAL MATTERS SHOULD BE SUBMITTED BY THE LOCAL UNION REPRESENTATIVE TO THE INSTALLATION HEAD OR DESIGNEE. ALL OTHER REQUESTS FOR INFORMATION SHALL BE DIRECTED BY THE NATIONAL PRESIDENT OF THE UNION TO THE VICE PRESIDENT, LABOR RELATIONS. NOTHING HEREIN SHALL WAIVE ANY RIGHTS THE UNION MAY HAVE TO OBTAIN INFORMATION UNDER THE NATIONAL LABOR RELATIONS ACT, AS AMENDED. (THE PRECEDING ARTICLE, ARTICLE 31, SHALL APPLY TO CITY CARRIER ASSISTANT EMPLOYEES

JUST IN CASE...

- WHEN YOU HAVE A TEMPLATE WITH THE LANGUAGE FROM ARTICLES 17 & 31 AND MANAGEMENT FAILED TO PROVIDE YOU YOUR REQUEST MAKE SURE THAT YOU HIGHLIGHT THE FIRST SENTENCE IN 31.3: **THE EMPLOYER WILL MAKE AVAILABLE.**
- IT DOES NOT SAY THAT MANAGEMENT MAY MAKE AVAILABLE, OR THEY SHOULD MAKE AVAILABLE, OR WE STRONGLY RECOMMEND THEY MAKE AVAILABLE, IT SAYS WILL MAKE AVAILABLE
- WHEN THE USPS STARTS TO CHARGE YOU FOR PAGES UNDER ARTICLE 31.3 YOU CAN BUY A FLASH DRIVE AND ASK THEM TO JUST TRANSFER IT ONTO THE FLASH DRIVE
- IF YOUR MANAGERS CHANGE THE PERSON WHO THE STEWARD HANDS THE INFORMATION REQUEST TO, CONTACT YOUR BRANCH PRESIDENT. INFORM THE BRANCH PRESIDENT OF WHAT IS HAPPENING AND THEN ASK HOW THEY WOULD LIKE TO HANDLE IT. THE BRANCH PRESIDENT MAY SAY JUST DO IT AND WE WILL FILE A PAST PRACTICE GRIEVANCE ON IT, OR THEY MAY CALL THE BUSINESS AGENT AND REPORT THAT THERE HAS BEEN A CHANGE IN WHO WE ARE GIVING OUR REQUEST FOR INFORMATION TO, AND THEY WILL HANDLE THAT FOR YOU

JCAM ARTICLE 31 LANGUAGE CONTINUED

- INFORMATION. ARTICLE 31.3 PROVIDES THAT THE POSTAL SERVICE WILL MAKE AVAILABLE TO THE UNION ALL RELEVANT INFORMATION NECESSARY FOR COLLECTIVE BARGAINING OR THE ENFORCEMENT, ADMINISTRATION, OR INTERPRETATION OF THE AGREEMENT, INCLUDING INFORMATION NECESSARY TO DETERMINE WHETHER TO FILE OR TO CONTINUE THE PROCESSING OF A GRIEVANCE. IT ALSO RECOGNIZES THE UNION'S LEGAL RIGHT TO EMPLOYER INFORMATION UNDER THE NATIONAL LABOR RELATIONS ACT. EXAMPLES OF THE TYPES OF INFORMATION COVERED BY THIS PROVISION INCLUDE:
- • ATTENDANCE RECORDS • PAYROLL RECORDS • DOCUMENTS IN AN EMPLOYEE'S OFFICIAL PERSONNEL FILE • INTERNAL USPS INSTRUCTIONS AND MEMORANDUMS • DISCIPLINARY RECORDS • ROUTE INSPECTION RECORDS • CUSTOMER COMPLAINTS • HANDBOOKS AND MANUALS • PHOTOGRAPHS • REPORTS AND STUDIES • SENIORITY LISTS • OVERTIME DESIRED AND WORK ASSIGNMENT LISTS • BIDDING RECORDS • WAGE AND SALARY RECORDS • TRAINING MANUALS • POSTAL INSPECTION SERVICE INVESTIGATIVE MEMORANDA • OFFICE OF INSPECTOR GENERAL REPORTS OF INVESTIGATION

SHOP STEWARDS....

- ALWAYS REMEMBER THE WORD RELEVANCE
- WE AS THE UNION DETERMINE WHAT IS RELEVANT INFORMATION THAT WE REQUEST FOR THE GRIEVANCE
- MANAGEMENT DOES NOT DETERMINE WHAT INFORMATION THAT WE REQUEST IS RELEVANT OR NOT TO THE GRIEVANCE
- IN ARTICLE 15 IN THE JCAM, WHERE IT SAYS THAT DURING THE MEETING BOTH PARTIES ARE ENCOURAGED TO JOINTLY REVIEW ALL RELEVANT DOCUMENTS TO FACILITATE RESOLUTION OF THE DISPUTE, THOSE RELEVANT DOCUMENTS ARE THE ONES THAT THE SHOP STEWARD IS REQUESTING AT THE INFORMAL AND FORMAL A STEPS

JCAM ARTICLE 31 LANGUAGE CONTINUED

- TO OBTAIN EMPLOYER INFORMATION, THE UNION NEED ONLY GIVE A REASONABLE DESCRIPTION OF WHAT IT NEEDS AND MAKE A REASONABLE CLAIM THAT THE INFORMATION IS NEEDED TO ENFORCE OR ADMINISTER THE CONTRACT. THE UNION MUST HAVE A REASON FOR SEEKING THE INFORMATION—IT CANNOT CONDUCT A FISHING EXPEDITION INTO POSTAL SERVICE RECORDS.

RELEVANCY LETTER

- TO: MR. COREY WALTON NALC:
 - THIS LETTER IS IN RESPONSE TO YOUR REQUEST FOR INFORMATION DATED 5/13/2021 FOR DISCIPLINE FOR ADVERSE ACTIONS AGAINST SUPERVISORS (INSERTED NAMES HERE). ALSO, THE INFORMATION REQUESTED IN RELATION TO FORMER POSTMASTER J. DOE. BECAUSE YOUR REQUEST IS FOR INFORMATION OUTSIDE YOUR BARGAINING UNIT AND IS NOT PRESUMPTIVELY RELEVANT, WE ARE SEEKING TO KNOW THE RELAVANCY OF YOUR REQUEST. BE ADVISED THAT YOUR REQUEST HAS NOT BEEN DENIED, RATHER, WE ARE SEEKING TO KNOW THE RELAVANCY OF THE INFORMATION SOUGHT.

WHAT WAS THAT ALL ABOUT?

- WHAT IS MANAGEMENT TRYING TO DO HERE?
- THEY ARE TRYING TO GET THE SHOP STEWARD TO SHOW THEM THEIR HAND. LAY ALL THEIR CARDS ON THE TABLE, AS IT WERE. TO TRY TO KNOW WHAT WE ARE GOING TO ARGUE IN THE FULL CASE
- EVEN THOUGH IN THE INFORMATION REQUEST THE STEWARD HAD WRITTEN THAT THEY WERE ASKING FOR INFORMATION ABOUT WHAT HAD BEEN DONE TO THE SUPERVISORS AND POSTMASTER IN A SEPARATE CASE PERTAINING TO WHY THEY WERE NOW GOING AFTER THE SHOP STEWARD THAT HAD CAUGHT THEM ALL FALSIFYING CLOCK RINGS, BECAUSE THE SHOP STEWARD WANTED TO SHOW IF MANAGERMENTS DISCIPLINE MET JUST CAUSE

ASKING THE QUESTIONS

- WHEN THEY STATED THAT THE REQUEST FOR INFORMATION WAS OUTSIDE OF YOUR BARGAINING UNIT, AND IS NOT **PRESUMPTIVELY RELEVANT**

- PRESUMPTIVELY RELEVANT TO WHOM? WHO MAKES THAT DECISION? THE SHOP STEWARD
- SHOP STEWARDS ARE THE ONES WHO ARE FILING THE GRIEVANCE AND THEREFORE THEY, AND THEY ALONE, DETERMINE WHAT IS AND WHAT IS NOT RELEVANT

- OUTSIDE OF THE BARGAINING UNIT= ARTICLE 31 COVERS THE STEWARDS IN THIS WAY:

TO OBTAIN EMPLOYER INFORMATION, THE UNION NEED ONLY GIVE A REASONABLE DESCRIPTION OF WHAT IT NEEDS (THE EMPLOYER IS NOT INSIDE OF OUR BARGAINING UNIT, IT'S IN EVERY UNIT)

RELEVANCY LETTER CONTINUED

- BECAUSE THE INFORMATION SOUGHT IS NOT PRESUMPTIVELY RELEVANT, THE POSTAL SERVICE REQUESTS THAT YOU STATE WITH SPECIFICITY HOW THE INFORMATION IS RELEVANT AND NECESSARY TO THE PERFORMANCE OF THE UNIONS COLLECTIVE BARGAINING DUTIES. THIS WOULD BE NECESSARY TO KNOW BECAUSE NON-BARGAINING EMPLOYEES ARE NOT COVERED BY THE NALC CONTRACT.

LET'S UNPACK THAT

- SO, WHEN THEY STATED THAT NON-BARGAINING EMPLOYEES ARE NOT COVERED IN THE CONTRACT, THEY OBVIOUSLY DON'T KNOW WHAT THEY ARE TALKING ABOUT
- WHEN THEY STATE THAT THE POSTAL SERVICE REQUESTS THAT YOU STATE WITH SPECIFICITY HOW THE INFORMATION IS RELEVANT, THE DEFINITION OF REASONABLE IS THIS: NOT EXTREME OR EXCESSIVE. AND SPECIFIC DEFINITION IS THIS: CLEARLY DEFINED OR IDENTIFIED. SO, WHEN THEY SAY THEY WANT SPECIFICITY THEY MEAN THEY WANT IT CLEARLY DEFINED OR IDENTIFIED. WE DON'T HAVE TO DO THAT. WE ONLY HAVE TO GIVE A REASONABLE DESCRIPTION OF WHAT IT NEEDS UNDER ARTICLE 31

ARBITRATOR MITTENTHAL C-10363

- WHAT IS SIGNIFICANT IN THIS CASE WAS THE POSTAL SERVICE ARGUMENT THAT NALC FAILED TO SHOW THAT THE INFORMATION REQUESTED WAS "RELEVANT OR NECESSARY FOR COLLECTIVE BARGAINING AND/OR CONTRACT ADMINISTRATION" MY DECISION NOTED THAT NALC HAD EXPLAINED IN STEP 4 THAT THIS INFORMATION WAS TO BE USED FOR "TELEPHONE SURVEYS" OF ITS MEMBERS. THOSE SURVEYS, ACCORDING TO THE BERNSTEIN AWARD, WERE TO BE CONDUCTED AMONG "SPECIFIC SUBGROUPS OF THE BARGAINING UNIT - WOMEN, BLACKS, VETERANS, ETC. - TO ASCERTAIN THEIR PARTICULARIZED NEEDS AND DESIRES SO THAT THEY CAN PROPERLY BE REPRESENTED IN THE UNION'S BARGAINING PROPOSALS." ON THE BASIS OF NALC'S CLAIM THAT SUCH INFORMATION WAS "NECESSARY" FOR COLLECTIVE BARGAINING, BERNSTEIN HAD HELD, AND I EXPRESSLY AGREED: ...THIS IS A SUFFICIENT SHOWING TO COMPLY WITH THE [ARTICLE 31, SECTION 2] MANDATE THAT THE DATA SOUGHT MUST BE "RELEVANT INFORMATION NECESSARY FOR COLLECTIVE BARGAINING."

ARBITRATOR MITTENTHAL C-10363

- THE ARBITRATOR CANNOT BE MADE THE JUDGE OF THE UNION'S BARGAINING NEEDS. THE DECISION AS TO WHAT DATA IS NEEDED TO PREPARE THE UNION'S BARGAINING PROPOSALS IS ONE THAT ONLY THE UNION CAN MAKE. IF IT ASSERTS THAT IT NEEDS THIS DATA FOR THAT PURPOSE, AND THERE IS NO REASON TO CONCLUDE THAT THE ASSERTION IS NOT TRUTHFUL, THAT IS ENOUGH TO SATISFY THE MANDATE OF ARTICLE 31, SECTION 2. THESE FINDINGS SHOULD BE KEPT IN MIND IN EVALUATING THE "RELEVANCY" ARGUMENTS MADE IN THE INSTANT CASE.

ARBITRATOR MITTENTHAL C-10363

- NO DOUBT SOME TYPE OF INVESTIGATION PRECEDES THE SUBMISSION OF A GRIEVANCE. INFORMATION IS DEVELOPED AND A DECISION IS MADE BY APWU AS TO WHETHER OR NOT A GRIEVANCE IS WARRANTED. IF THERE SEEMS TO BE NO MERIT IN A PARTICULAR COMPLAINT, PRESUMABLY NO GRIEVANCE WOULD BE FILED. IT IS FOR THE APWU ALONE TO "DETERMINE IF A GRIEVANCE EXISTS...", TO "DETERMINE WHETHER TO FILE...A GRIEVANCE..." IF THE INFORMATION IT SEEKS HAS ANY "RELEVANCY" TO THAT DETERMINATION, HOWEVER SLIGHT, ITS REQUEST FOR THIS INFORMATION SHOULD BE GRANTED. ASSUME FOR THE MOMENT THAT THE EI/QWL MINUTES WERE NOT "RELEVANT" TO THE WORK JURISDICTION GRIEVANCE FILED FIVE WEEKS AFTER APWU INITIALLY REQUESTED THESE MINUTES.

ARBITRATOR MITTENTHAL C-10363

- THAT ASSUMPTION CANNOT CONTROL THE DISPOSITION OF THE PRESENT CASE. WHETHER A PIECE OF INFORMATION IS "RELEVANT" TO THE MERITS OF A GIVEN CLAIM IS ONE THING; WHETHER SUCH INFORMATION IS "RELEVANT" TO APWU'S DETERMINATION TO PURSUE (OR NOT PURSUE) THAT CLAIM THROUGH THE FILING OF A GRIEVANCE IS QUITE ANOTHER. THE LATTER QUESTION ALLOWS "RELEVANCY" A FAR BROADER REACH AND SHOULD HAVE PERMITTED THE APWU, FOR THE REASONS ALREADY EXPRESSED, TO RECEIVE THE APPROPRIATE EI/QWL MINUTES. THE POSTAL SERVICE VIEW THAT APWU'S REQUEST FOR THESE MINUTES WAS A MERE "FISHING EXPEDITION" IS NOT PERSUASIVE.

ARTICLES 17 & 31 IN THE JCAM

- ARTICLE 17 TALKS ABOUT OUR RIGHT TO INFORMATION
- ARTICLE 31 ALSO TALKS ABOUT OUR RIGHT TO INFORMATION
- THEY GO HAND IN HAND AND SHOULD BE IN EVERY TEMPLATE THAT YOU HAVE IF THERE IS EVER A PROBLEM WITH REQUESTING OR RECEIVING INFORMATION
- WHEN THE SHOP STEWARD PUTS IN AN INFORMATION REQUEST AND IS EITHER DENIED THE INFORMATION OR IS EVEN ASKED WHY THEY REQUESTED THAT INFORMATION THIS NEEDS TO BE GRIEVED AND OR PUT INTO THE CONTENTIONS OF THE GRIEVANCE

WRAPPING IT UP

- IF YOU ARE A NEWER STEWARD AND YOU GET A RELEVANCY LETTER, GO TO ARTICLES 17 & 31. GO TO THE PREVIOUS EPISODES OF FROM A TO ARBITRATION ON ARTICLE 17 & 31 AND LISTEN TO THOSE
- MAKE SURE THAT YOU HAVE A REASON FOR REQUESTING THE DOCUMENTATION, YOU CAN'T JUST "GO FISHING" FOR INFORMATION
- DON'T BE A JERK ABOUT IT WHEN YOU ARE REQUESTING INFORMATION, MAKE SURE YOU CAN BACK UP EVERY DOCUMENT THAT YOU ARE ASKING FOR AND THAT IT IS RELEVANT TO YOUR GRIEVANCE
- IF YOU PUT IN AN INFORMATION REQUEST THAT REQUESTS ANY AND ALL INFORMATION THAT MANAGEMENT USED TO ISSUE THE CARRIER THIS LETTER OF WARNING, AND YOU RECEIVE NOTHING BACK, THEN YOU DON'T NEED TO PUT IN ANYMORE REQUESTS. MAKE SURE YOU ADD THE EXTRA ISSUE STATEMENT IN THE GRIEVANCE ON A VIOLATION OF ARTICLE 17 & 31, WRITE A STATEMENT STATING THAT YOU REQUESTED THE INFORMATION AND RECEIVED NOTHING BACK. AND THAT IS ALL YOU NEED.