**UNION CONTENTIONS**

**CLASS ACTION**

**HOLIDAY SCHEDULING**

**(Specific) STATION**

1. **Did management violate Articles 11, 19, and 30 of the National Agreement via the Local Memorandum of Understanding (LMOU) when they failed to post the holiday schedule as of Tuesday preceding the service week in which the holiday fell? If so, what is the appropriate remedy?**
2. **Did management violate Articles 11, 19, and 30 of the National Agreement via the Local Memorandum of Understanding (LMOU) when they failed to permit the maximum number of full-time letter carriers off who desired not to work the holiday? If so, what is the appropriate remedy?**

The union contends management failed to post the **(Specific Holiday)** holiday schedule as of the Tuesday preceding the service week in which the holiday fell as required. Article 11.6.A of the 2022 Joint Contract Administration Manual (JCAM) reads:

**Section 6. Holiday Schedule**

1. The Employer will determine the number and categories of employees needed for holiday work and a schedule shall be posted as of the Tuesday preceding the service week in which the holiday falls.

The union contends the **(Specific Holiday)** holiday schedule for the **(Specific Station)** Post Office, which is included in the casefile, indicates it was improperly posted. The holiday schedule was round dated and posted on Wednesday preceding the service week in which the holiday fell. The union contends management failed to post the holiday schedule in accordance with Article 11.6.A and by doing so has violated Article 11 of the National Agreement.

Management’s failure to post the holiday schedule in accordance with Article 11.6.A resulted three (3) letter carriers being paid incorrectly. Page 11-4 of the 2016 Joint Contract Administration Manual (JCAM) reads in relevant part:

**Holiday Schedule Posting.** The provisions of Article 11.4.A concerning straight-time pay for holiday work apply to all full-time employees whose holiday schedule is properly posted in accordance with this section. **If the holiday schedule is not posted as of Tuesday preceding the service week in which the holiday falls, a full-time employee required to work on his or her holiday or designated holiday, or who volunteers to work on such day, will receive holiday scheduling premium for each hour of work, up to eight hours.** (Emphasis added)

The union contends management harmed three (3) letter carriers when they failed to enter the proper time codes in TACS. Management’s failure to ensure the three (3) letter carriers were paid holiday scheduling premium correctly is unacceptable. Management’s cavalier attitude about these letter carriers pay is inexcusable. The letter carriers **worked** for the compensation, they **earned** the compensation, it was not given or awarded to them and should be in their accounts, accessible to them to do with as they wish.

The Employee and Labor Relations Manual (ELM) Section 434.53c reads in relevant part:

A holiday scheduling premium equal to 50 percent of the amount paid in 434.53a is paid to eligible employees for time actually worked on a holiday or on the employee’s designated holiday (except Christmas) when the holiday schedule is not posted in accordance with national agreements, as follows:

* 1. If the schedule is not posted as of Tuesday preceding the service week in which the holiday falls, a full-time regular bargaining unit employee who is required to work on his or her holiday or designated holiday, or who volunteers to work on that day, **receives *holiday scheduling premium* for each hour of work, not to exceed 8 hours. This premium is in addition to both holiday leave pay and holiday-worked pay.** (Emphasis added)

The Employee and Labor Relations Manual (ELM) Section 434.53c is clear and unambiguous. Management was required to compensate the three (3) letter carriers who were forced to work their designated holiday at the holiday scheduling premium rate. The holiday scheduling premium is equal to 50 percent of each carrier’s base straight time rate. Management’s failure to adjust these carriers pay accordingly can only be either gross negligence or utter incompetence.

The 2016 Joint Contract Administration Manual (JCAM) continues to instruct the parties with guidance on page 11-5 which reads in relevant part:

The Memorandum of Understanding dated October 19, 1988 (M-00859) provides:

The parties agree that the Employer may not refuse to comply with the holiday scheduling pecking order provisions of Article 11.6 or the provisions of a Local Memorandum of Understanding in order to avoid payment of penalty overtime. The parties further agree to remedy past and future violations of the above understanding as follows.

1. Full-time employees and part-time regular employees who file a timely grievance because they were improperly assigned to work their holiday or designated holiday will be compensated at an additional premium of 50 percent of the base hourly straight time rate.
2. For each full-time employee or part-time regular employee improperly assigned to work a holiday or designated holiday, the Employer will compensate the employee who should have worked but was not permitted to do so, pursuant to the provisions of Article 11.6, or pursuant to a Local Memorandum of Understanding, at the rate of pay the employee would have earned had he or she worked on that holiday.

The national parties came together, bargained in good faith, and reenforced existing language to make the position of both party’s crystal clear. Unfortunately, management at the local level is either unaware or has decided to make a conscious decision to ignore the rules set forth by their superiors. Management was aware because I made the rules and the unions expectations clear when the holiday schedule was posted late.

The grievance case file includes TACS Employee Everything Reports which read:

EMPLOYEE SCHEDULE

**(Carrier X)** S—TWTF

**(Carrier Y)**  S—TWTF

**(Carrier Z)** S—TWTF

All three (3) letter carriers were each compensated as follows:

05200: 008.00 05700: 008.00 05800:008.00

The union contends management has failed to properly compensate the above letter carriers the additional 50 percent holiday scheduling premium for the clear violation of posting the holiday schedule late. The union contends the above carriers were only paid holiday work (05700) and for the **(Specific Holiday)** holiday (05800). Included in the case file are TACS codes which indicate that the proper reflection of holiday scheduling premium is (04800).

Management failed to comply with Article 11.6.B of the Joint Contract Administration Manual which reads:

**Section 6. Holiday Schedule**

1. As many full-time and part-time regular schedule employees as can be spared will be excused from duty on a holiday or day designated as their holiday. Such employees will not be required to work on a holiday or day designated as their holiday unless all casuals and parttime flexibles are utilized to the maximum extent possible, even if the payment of overtime is required, and unless all full-time and part-time regulars with the needed skills who wish to work on the holiday have been afforded an opportunity to do so.

Page 11-3 of the 2016 Joint Contract Administration Manual reads in relevant part:

The intent of Article 11.6 is to permit the maximum number of full-time regular, full-time flexible, and part-time regular employees to be off on the holiday should they desire not to work while preserving the right of employees who wish to work their holiday or designated holiday. The union contends management has failed the three letter carriers by not excusing as many as possible.

Step 4 Agreement M-00152 dated August 31, 1977, reads in relevant part:

Article XI, Section 6 of the National Agreement is written to allow as many full-time regular schedule employees off on a holiday as practicable.

The union contends management failed in their obligation to the three letter carriers who were forced to work their designated holiday. The union contends management selfishly scheduled letter carriers who did not desire to work their designated holiday so they could begin their holiday weekend as early as possible and to make it easier on themselves when assigning excess work.

The Local Memorandum of Understanding (LMOU) reads:

ITEM 13: "THE METHOD OF SELECTING EMPLOYEES TO WORK ON A HOLIDAY."

In establishing and posting schedules for holidays, and days designated as employees'

holidays, carriers shall be scheduled in the following order:

1. PTFs, even if overtime is necessary.
2. Full-time regulars who have volunteered to work on their holiday or their designated holiday when such day is part of their regular work schedule. These employees would be working at the straight time rate in accordance with article 11, Section 4.
3. City Carrier Assistants.
4. All other Full-time regular volunteers. If scheduled to work and it would otherwise be their non-scheduled workday.
5. Full-time regulars who have not volunteered and who will be working on what would otherwise be their non-scheduled workday, on a rotating basis.
6. All other full-time regulars who have not volunteered, on a rotating basis.

The grievance case contains **(example statement)** from unassigned regular Anthony which reads as follows:

On Monday February 11th 2019, I went to go clock in for work and below the clock in machine was a list for volunteers sign up sheet for Regulars for the upcoming Presidents’ Day holiday weekend (February 18th 2019).  At the time I was holding down an opt on route 8 and came with Saturday as being my nonscheduled off day for that route.  Also at the time I was on just 8 hour list (I was Not on work assignment or the overtime list) and with Saturday being my off day and Monday being the holiday it would have given me a 3 day weekend. So I signed the sheet in the column “not willing work”. Well the schedule got posted that Thursday February 14 and my name was on the schedule to work that Saturday February 16th 2019, my nonscheduled off day for the route I was opted on. I asked Ramon why I was on the schedule and being forced in on my off day. He told me that there wasn’t enough people on the schedule to allow me to be off and that with Hyka leaving the station that Saturday, I would be the lowest Regular on the totem pole.

So I came into work that Saturday February 16th 2019. As I was casing route 8 I noticed that there was a person on every route (we had no open routes). I also noticed that there was hardly ANY MAIL OR PARCELS.  I started wondering to myself “why in the hell did I have to come in on my off day to work”. The mail was so light that I finished my route by 11:00-11:30 lol. After that I was told that I had to go take an hour and half off a CCA on route 6 in which I finished in about 45 minutes (that’s how little mail there was). Everyone was telling me that I would be making time and half for every hour I was on the clock. To be completely honest I didn’t really care. For close to 2 years I have had hours shoved down my throat and have done endless take-offs for west station, I went on to the 8 hour list because I enjoy my free time away from work and having a 2 hour commute time a day I don’t wish to have to come in and waste my time and money on gas when I don’t have to.

Anthony 4/3/2019

The grievance case file contains a work hour/overtime grid for the adjusted holiday Saturday, February 16, 2019, which indicates the following:

Available up to 8hr (carriers worked less than 8hrs): **12.40**

Available up to 10hr:  **30.75**

Anthony: **4.83hrs worked**

The grievance case file includes daily schedules from the previous five (5) Saturdays which indicate management at the **(Specific Station)** usually pivot routes. The union contends the language in Article 11.6 is clear to the intent to allow the maximum number of employees that do not desire to work their holiday or designated holiday. The union contends management missed the mark tremendously when 12.40 hours were available to provide at least eight (8) hours of work for **(Specific Station)** carriers. Additionally, management had up to 7.89 hours of CCA supplemental work force help that was under the eight (8) hours worked. Not one single CCA worked up to eight (8) hours on 02/16/2019 which is in direct contradiction of Article 11. The union contends the language in Article 11.6 is very clear when stating that “employees will not be required to work on a holiday or day designated as their holiday **unless all casuals and part-time flexibles are utilized to the maximum extent possible**, even if the payment of overtime is required,” and the management at **(Specific Station)** allowed CCA’s to leave as early as 13.16. (Emphasis added)

Page 15-8 of the NALC-USPS of the Joint Contract Administration Manual reads as follows:

**A Step B decision establishes precedent only in the installation from which the grievance arose. For this purpose, precedent means that the decision is relied upon in dealing with subsequent similar cases to avoid the repetition of disputes on similar issues that have been previously decided in that installation.** (Emphasis added)

The grievance case file contains DRT decision for USPS # - **(GATS Number)** which on 09/01/09 rendered the following decision:

The grievant will be granted 8 hours of administrative leave. The administrative leave must be requested following the normal leave procedures as outlined in the LMOU and must be used by January 1, 2010.

The grievance case file contains DRT decision for USPS # - **(GATS Number)** which on 02/07/2018 rendered the following decision:

The DRT determines management violated Articles 11 and 30 of the National Agreement when they forced Letter Carrier Curtis to work his Non-scheduled day. The grievant will be compensated $163.50 minus standard deductions which will be processed by the DRT in GATS.

The grievance case file contains DRT decision for USPS # - **(GATS Number)** which on 12/20/2017 rendered the following decision:

The DRT determines Management violated the National Agreement when they forced Carrier Moore to work his designated holiday on October 7, 2017. Letter Carrier Robert is awarded a one-time lump sum settlement of $120 which will be processed by the DRT in GATS.

The grievance case file contains DRT decision for USPS # - **(GATS Number)** which on 02/23/18 rendered the following decision:

The DRT determines Management violated Article 11 and 30 of the National Agreement when they forced Letter Carriers Moore and Elrod to work their Non-Scheduled day. The grievants will be compensated $120 minus standard deductions which will be processed by the DRT in GATS.

USPS letter (M-01517) dated May 31, 2002, reads in part:

**Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator’s award** or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented. (Emphasis added)

Article 15.3.A of the National Agreement reads in relevant part as follows:

“A. **The parties expect that good faith observance, by their respective representatives**, **of the principles and procedures set forth above will result in resolution of substantially all grievances initiated here under at the lowest possible step and recognize their obligation to achieve that end.** (Emphasis added)

The grievance file includes a letter dated February 23, 2009, from Postmaster General John E. Potter to Officers and PCES Managers reads in relevant part as follows:

“SUBJECT Collective-Bargaining Agreements—Our Bond with Our Employees

Our bond with our employees has never been more important than it is today. That bond is represented by the collective-bargaining agreements with our unions. As we adapt to a dynamic and dramatically changing environment we will, by necessity, bring even more change to our business.  **But one thing cannot change: our adherence to the provisions of our labor agreements. They are our word. They are our pledge of fairness to our employees.** It is up to each one of us to make sure that the changes we bring to the organization are changes for the better. **Respecting and protecting the provisions of the collective-bargaining agreements will help us to do that.”** (Emphasis added)

Non-Compliance with Arbitration Awards directive signed and dated 03/20/1998 by Vice President –Labor Relations and Former Postmaster General John E. Potter reads as follows:

**It has been brought to our attention that we have an increasing problem with postal managers not complying with arbitration awards and grievance settlements**, especially back pay awards. **Arbitration awards and grievance settlements are final and binding**. One of the few acceptable reasons for non-compliance with an arbitration award is if the Postal Service is seeking to have an award vacated in a federal court, which is very rare. **No manager or supervisor has the authority to override an arbitrator’s award or signed grievance statement.** Please take affirmative steps to ensure that all arbitration awards and grievance settlements are being complied with in a timely manner. Failure to do so only damages our credibility with both our employees and our unions. (Emphasis added)

The union contends management’s willful disregard for the intent of Article 11 is evident by the complete lack of use of the supplemental workforce. The Union contends management had another opportunity to preserve the intent of Article 11, Section 6 by utilizing the overtime desire list and CCA to cover the hours that letter carrier Anthony worked after the posting of the Holiday Schedule. The Union contends management’s willful disregard to utilize the overtime desired list and available CCA supplemental workforce is in violation of Article 11 and its intent. The Union contends management failed to live up to its obligations under the provisions of our collective bargaining agreement. The union requests the following remedy for the violation:

1. **Management be issued a cease and desist of this practice when failing to permit the maximum number of full-time employees who desired not to work the Holiday.**
2. **Management be issued a cease and desist when failing to timely post the Holiday Schedule in accordance with Article 11.6.A. and management compensate the following carrier(s) an additional 50% for the untimely posting in accordance with Article 11.6:**

**EMPLOYEE: AMOUNT:**

1. **Letter carrier Anthony be awarded 4.83 hours of administrative leave/compensated an additional 50% for management arbitrarily forcing him to work his scheduled day off.**
2. **All payments associated with this case be processed as soon as administratively possible but no later than seven (7) days from decision and proof/receipt be provided to (STEWARD’S NAME) at (EMAIL ADDRESS) within that time.**
3. **Or whatever Step B Team or Arbitrator deems appropriate.**