



STEP B DECISION

Step B Team:

Grieving District: Indiana District

Decision: **Impasse**
USPS Number: **4J 19N-4J-C 23230123**
Grievant: **Class Action**
Branch Grievance Number: **1023-23**
Branch: **330**
Installation: **South Bend**
Delivery Unit: **Brademas**
State: **Indiana**
Incident Date: **4/10/2023**
Date Informal Step A Initiated: **4/11/2023**
Formal Step A Meeting Date: **Failed to Meet**
Date Received at Step B: **5/3/2023**
Step B Decision Date: **6/12/2023**
Issue Code: **71.2100, 14.0000**
Subject Code: **600139**
Original Step B Received Date: **N/A**
Date Sent to Assisting Team: **N/A**

ISSUE: Did management violate Article 14 of the National Agreement when management reported City Letter Carriers completing HERO training courses when the courses were not taken? If so, what is the appropriate remedy?

DECISION: The Dispute Resolution Team (DRT) has declared an **Impasse**.

The Step B Team has considered all arguments and evidence in the case file and any of this material may be cited in the event of arbitration. The NALC National Business Agent may appeal this grievance to arbitration within fourteen (14) days of receipt of this joint decision.

There is no National interpretive issue fairly presented in this dispute.

EXPLANATION: Along with all the contentions raised at previous steps of the grievance procedure, the following is submitted for consideration.

Step B, Union's Disputed Facts and Contentions

It is undisputed that Management of the Postal Service “falsified” training records pertaining to the Heat Illness Prevention Program. They went into the HERO program and marked every employee that was required to be provided the heat illness training that their training was completed. This simply did not happen. This is a willful, deliberate, arbitrary, and malicious action taken by management just so they don’t have to provide their employees the time for the training to be completed.

Management appears to have taken it even one step further when the Union requested an extension to meet at Formal Step A. According to Steward [redacted] statement, he approached SCS [redacted] and requested an extension to meet at Formal Step A until 5/15/2023. SCS [redacted] then asked what the grievance pertained to. When Steward [redacted] explained to him what it was about, SCS [redacted] stated *“I am not to give you an extension for this. I was told not to.”* When he asked him who told him that, he would tell him. He just shrugged his shoulder. There was another grievance he was requesting an extension on. SCS [redacted] asked what that one was about which he signed and agreed with that extension after hearing what it pertained to with no hesitation. This is nothing more than an effort to prevent the Union from bringing to light the deliberate and malicious actions of local management.

Management would lead one to believe that their employee’s safety is a top priority of the Postal Service. However, actions like this tell an entirely different story. The real story appears to be that they say one thing, yet do the opposite. There are 2 different levels of the Heat Illness Prevention Program; HIPP Safety Talk 2068 and Heat Stress Recognition and Prevention. The safety talk is just that, a safety talk. However, the Heat Stress Recognition and Prevention is an online course. Each employee would have to go into HERO and complete the course. This wasn’t actually done, even though management marked everyone as completed.

This cannot be done by “accident”. There are certain steps that the individual “falsifying” the completion of this training would have to go through to get it done. These steps are as follows:

After logging into the computer, access the Blue Page.

1. Go to “My Learning”
2. Select “Express Class”
3. Type “FY23” under the General Information tab
4. Select “Heat Stress Recognition”
5. Select “Attendees”
6. Select “Add Attendees”
7. Either click the box next to each name or click on the “Select All” box
8. Select “Record”
9. Click on “Complete”
10. Select “Save”

This representative’s counterpart agrees that it is “improper” for any member of management to enter training for an employee in HERO, when in fact they had not received the training. However, the word “falsify” simply refuses to be used. Maybe that is because it is well known that if a craft employee were to “falsify” anything work related, they would be given an investigative interview and issued subsequent discipline (more than likely a removal). But since

this “falsification” was done by a member of management, they refuse to even say the word “falsify”.

It is managements responsibility to provide training to ensure that their employees are provided with a safe and healthy workplace. EL 801 Sections 1-1 and 1-2 state (emphasis added):

1-1 Supervisor’s Responsibilities

The Occupational Safety and Health Act requires employers to provide a safe and healthful workplace free of recognized hazards and to follow Occupational Safety and Health Administration (OSHA) standards. **Employers’ responsibilities also include providing training**, medical examinations, and record keeping.

As a Postal Service supervisor, you are the backbone of our Safety and Health Program. You are in a highly visible leadership position that requires setting the standard for accident prevention. You are responsible for implementing written programs and action plans, monitoring employees’ safety performance, and preventing operational safety errors. To properly exercise your responsibility, you must know Postal Service safety rules and regulations and the rights and responsibilities of the employees you supervise.

1-2 Postal Service Safety Philosophy

The Postal Service’s position is that:

- a. Any injury can be prevented. This goal is realistic, not just theoretical. Supervisors or managers having primary responsibility for the wellbeing of employees must fully accept this principle.
- b. Management, including all levels through the initial-level supervisor, is responsible and accountable for the prevention of accidents and control of resultant losses. Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.

Handbook EL 801 Section 1-7 states:

1-7 Safety Talk Requirements

Scheduled safety talks are intended to promote safety awareness. All line supervisors are required to conduct safety talks at least once a week with their employee groups, including temporary, casual, and relief personnel.

It is important to make the topics of safety talks relevant to your work situation and interesting to your employees. Involve them in developing topics and provide an

opportunity for discussion and demonstration when applicable. Publication 129, Safety Talks, is an excellent resource.

Your talks can be an effective method of maintaining interest in safety. Review these keys to making a good safety talk:

- a. Prepare your talk carefully.
- b. Try to confine each talk to one major subject; avoid rambling.
- c. Choose a general or specific safety policy or subject, but keep the talk interesting and targeted.
- d. Be specific whenever possible. For example, if you discuss housekeeping, highlight the danger of loose objects on the floor.
- e. Use visual aids or demonstrations to make your talk more interesting.

You must keep a record of all safety talks on file for 3 years, including the following:

- a. The date, time, and unit where the safety talk was given.
- b. The name of the person giving the talk.
- c. The subject of the talk.
- d. The names of employees attending the safety talk. An annotated unit roster or other automated attendance document is acceptable.

The Employee and Labor Relations Manual further details managements responsibilities when it comes to providing a safe work environment for its employees. Section 811.2 states (emphasis added):

811.2 Principles

811.21 Management Commitment, Involvement, and Accountability

Managers must:

- a. **Demonstrate a commitment to providing safe and healthful working conditions in all Postal Service owned and leased installations,**
- b. Become involved in day-to-day safety performance, and
- c. **Be held accountable for safety performance and compliance with OSHA standards and regulations** (see Handbook EL-802, *Executives' and Managers' Safety and Health Program and Compliance Guide*).

811.22 Vision Statement

The Postal Service will become a leader in occupational safety and health for the federal government and private sector by demonstrating a commitment to integrating safe work practices into all of our services. The Postal Service is committed to participation in the OSHA Voluntary Protection Programs (VPP). (See 811.25.) The Postal Service also engages in innovative safety efforts such as the Ergonomics Program and joint labor–management safety and health committees (see 816).

811.23 Guiding Principles

The guiding principles of the Postal Service are the following:

- a. ***People* — Employees are our most valued resource. Our employees must be provided a safe and healthful workplace.**
- b. *Customers* — When our employees work more safely, our performance improves.
- c. *Excellence* — We can demonstrate that management and employee attention to working safely is good business.
- d. *Integrity* — As a leader in occupational safety and health, we enhance our integrity with our customers, business partners, and Congress.
- e. ***Community Responsibilities* — When our employees work safely, our customers are safer, and we lead other employers by example.**

811.24 Safety Philosophy

The safety philosophy of the Postal Service is stated below:

- a. Any occupational injury or illness can be prevented. This goal is realistic, not theoretical. **Supervisors and managers have primary responsibility for the well-being of employees and must fully accept this principle.**
- b. **Management, which encompasses all levels including the first-line supervisor, is responsible and accountable for the prevention of accidents and control of resultant losses.** Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.
- c. **It is possible to safeguard against all operating exposures that can result in accidents, injuries, and illnesses.** It is preferable to eliminate the sources of danger. However, where this is not practical, management must use protective measures, including:
 - 1. Administrative controls,
 - 2. Machine guards,
 - 3. Safety devices, and
 - 4. Personal protective equipment.
- d. **All employees must be trained in proper work procedures and must be educated to work safely and to understand that they are responsible for doing so. Management is responsible for the adequate safety training and education of employees.** However, all employees are responsible for working safely, and in doing so, they benefit not only themselves but also their organization.
- e. It is good business practice in terms of efficiency and economy to prevent personal injuries on and off the job. Injuries cost money, reduce efficiency, and cause human suffering.

811.25 Voluntary Protection Programs

The Postal Service is committed to participation in OSHA's Voluntary Protection Programs (VPP). This program recognizes and establishes partnerships with businesses and worksites that show excellence in occupational safety and health. The Postal Service is committed to effective employee protection beyond the requirements of OSHA standards. The Postal Service is also committed to developing and implementing systems that effectively identify, evaluate, and control occupational hazards to prevent employee injuries and illnesses. Postal Service VPP implementation and maintenance procedures, based on the latest criteria from OSHA, are available on the Safety Resources Web site.

Management at all levels have failed to provide the proper training necessary to keep their employees safe while they are out working in excessive heat. This falls on all levels of Management but begins with the front-line supervisor. It has been mentioned that the reason this training was “falsified” is so “district will get off their backs”. So instead of having their employees complete the training as district requested, they chose to “falsify” their training records and go through multiple steps to mark all their employees that their training was completed.

The responsibilities of each level of management pertaining to safety and health are outlined in ELM Section 812 where it states (emphasis added):

812.3 District Managers

812.31 District Managers

District managers are responsible for implementing the occupational safety and health programs within their jurisdiction. Additionally, they must develop a district accident reduction plan (ARP) using the Safety Toolkit to achieve the corporate objectives of reducing injury, illness, and motor vehicle accidents. Refer to the Safety Resources Web site and the Safety Toolkit for additional information on developing, implementing, and monitoring ARPs.

812.32 Installation Heads and Managers

Installation heads and managers are responsible for:

- a. Employee safety and health;
- b. Implementation of the occupational safety and health program;
- c. Compliance with OSHA standards and regulations, including maintenance of the accident reports, OSHA Log, and Summary of Injuries and Illnesses through the Employee Health and Safety (EHS) system; and
- d. Developing, implementing, and monitoring facility ARPs using the Safety Toolkit to achieve the corporate objectives of reducing injuries, illnesses, and motor vehicle accidents. Refer to the Safety Resources site and the Safety Toolkit for additional information on developing, implementing, and monitoring ARPs.

Installation heads are encouraged to attend annual safety and health training.

812.4 Middle-Level Managers

Middle-level managers are responsible for the safety and health program within their operations. This includes responsibility for:

- a. Administering OSHA-mandated written programs;
- b. Conducting accident prevention activities;
- c. **Training employees;** and
- d. **Evaluating the safety performance of supervisors.**

- e. Coordinating activities, including correction of safety deficiencies, with other operational managers.

Middle-level managers are encouraged to attend annual safety and health training.

812.5 Supervisors' Responsibilities

812.51 General

Supervisors are responsible for:

- a. Identifying and correcting physical hazards;
- b. Investigating and reporting accidents;
- c. Administering OSHA-mandated written programs;
- d. Conducting accident prevention activities;
- e. Training employees;**
- f. Developing job safety analyses; and
- g. Enforcing safe work practices.

Supervisors are encouraged to attend annual safety and health training.

Management is responsible for providing the necessary training and retaining the records of their employees receiving the training. The case file does not contain the information of when the training was provided to the carriers. The reason this information is not included in the case file is because local management decided to willfully, deliberately, arbitrarily, and maliciously "falsified" their carriers training records.

ELM Section 817.9 states:

817.9 Training Records

For each employee, records of safety and health training must be maintained to demonstrate compliance with Postal Service policies and OSHA requirements. The records must be retained and available to allow inspection by Postal Service and OSHA officials. All safety training must be recorded in the Learning Management System (LMS).

Note: Documentation of safety talks and safety-related on-the-job training must be maintained either at the facility level or in the case of safety talks, in the Safety Talks module of the Safety Toolkit. These records must be available to allow inspection in a timely manner.

Management has a responsibility to ensure safe working conditions, and this includes a responsibility to ensure safety training is conducted when required. Article 14.1 of the JCAM states:

Section 1. Responsibilities

It is the responsibility of management to provide safe working conditions in all present and future installations and to develop a safe working force. The Union will cooperate with and assist management to live up to this responsibility. The Employer will meet with the Union on a semiannual basis and inform the Union of its automated systems development programs. The Employer also agrees to give appropriate consideration to human factors in the design and development of automated systems. Human factors and ergonomics of new automated systems are a proper subject for discussion at the National Joint Labor-Management Safety Committee.

Because local management decided to willfully, deliberately, arbitrarily, and maliciously “falsify” their carriers’ training records, this grievance should be sustained in its entirety and the complete remedy requested by the Union should be provided based on the completely unacceptable behavior from local management.

Step B, Management’s Disputed Facts and Contentions

This Impasse at hand is regarding the unions requested remedy. The union has requested an improper remedy for this instant grievance. The parties are responsible for putting an employee in the place they should have been had the contract been followed. Nothing more and nothing less.

This Step B representative agrees it would be improper for local management to enter training for an employee in HERO, when in fact they had not had the training. With that being said, the proper remedy would be for management to ensure they enter the employees training in HERO on the date the training was conducted. Additionally, from the documentation included in the case file, the union contends management showed that some employees had the HERO training when in fact they were not at work.

The proper remedy for this would be for local management to verify all employees have had the training, and if not, they need to ensure they receive the HIPP training immediately.

When you refer to the HIPP training poster, it states the following;

Management will verify the following tasks have been completed:

1. The HIPP is posted in the facility in a conspicuous location.
2. The Heat Illness poster is posted in the facility in a conspicuous location.
3. The HIPP Safety Talk has been given to all employees.
4. Employees have been provided with Heat Illness Prevention badge cards.
5. Heat Illness Prevention stickers have been placed in all owned and leased Postal Service vehicle. Management should not certify this Safety Talk unless and until each of the five tasks identified above have been completed.

Local management should not certify this Safety Talk unless and until each of the five tasks identified above have been completed.

The Postal Service implemented HIPP to protect employees from heat related illnesses and to educate them on how to stay safe during hot weather. Certification of HIPP training for all employees is required to be completed annually to ensure effectiveness and compliance. Full compliance with HIPP requires posting and distribution of safety materials and conducting a stand-up talk with all employees.

This Step B representative agrees local Management has a responsibility to ensure safe working conditions, and this includes a responsibility to ensure safety training is conducted when required.

14.1 Section 1. Responsibilities

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ELM section 811.24 states,

811.24 Safety Philosophy

The safety philosophy of the Postal Service is stated below:

- a. Any occupational injury or illness can be prevented. This goal is realistic, not theoretical. Supervisors and managers have primary responsibility for the well-being of employees and must fully accept this principle.
- b. Management, which encompasses all levels including the first-line supervisor, is responsible and accountable for the prevention of accidents and control of resultant losses. Just as the line organization is responsible for attaining production levels, ensuring quality of performance, maintaining good employee relations, and operating within cost and budget guidelines, supervisors and managers must likewise accept their share of responsibility for the safety and health of employees.
- c. It is possible to safeguard against all operating exposures that can result in accidents, injuries, and illnesses. It is preferable to eliminate the sources of danger. However, where this is not practical, management must use protective measures, including:
 1. Administrative controls,
 2. Machine guards,
 3. Safety devices, and
 4. Personal protective equipment.

d. All employees must be trained in proper work procedures and must be educated to work safely and to understand that they are responsible for doing so. Management is responsible for the adequate safety training and education of employees. However, all employees are responsible for working safely, and in doing so, they benefit not only themselves but also their organization.

e. It is good business practice in terms of efficiency and economy to prevent personal injuries on and off the job. Injuries cost money, reduce efficiency, and cause human suffering.

This Step B representative again, agrees that an employee's training should not be entered into HERO until the training has been completed. Additionally, if there are still employees who have not had the HIPP training, local management should immediately comply with the HIPP training as instructed.



USPS



NALC

CC: Step A Parties:

**, Vice-President NALC Branch 330
, Mgr Customer Services**

**Manager District Labor Relations
Area Labor Relations**

**, NBA – NALC
File DRT# 17564**

Document list: 1023-23 / 4J 19N-4J-C 23230123
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