

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration)	Grievant: De'Andre Cloud
Between	(Post Office: Conroe, Texas
UNITED STATES POSTAL SERVICE)	USPS Case No: G11N-4G-C 17484349
And	(DRT No.: 10-401579
NATIONAL ASSOCIATION OF LETTER CARRIERS UNION,)	
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nathy Baldwin
 National Business Agent
 N.A.L.C.
 Dallas Region #10

BEFORE: PETER J. CLARKE, Arbitrator

APPEARANCES:

For the U.S. Postal Service: Gilbert Miranda, Labor Relations Specialist

For the Union: Arturo G. Ramirez, Local Business Agent

Place of Hearing: Conroe, Texas

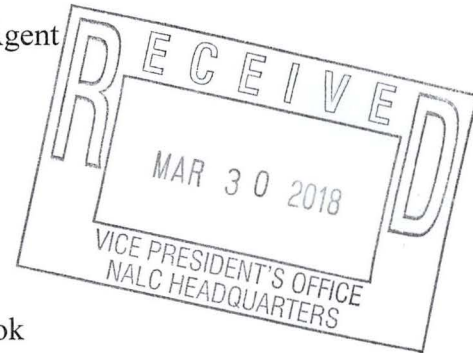
Date of Hearing: January 17, 2018

Date of Award: February 28, 2018

Relevant Contract Provisions: Articles 19, M-39 and M-41 Handbook

Contract Year: 2011-2016

Type of Grievance: Contract



Award Summary:

The grievance is sustained. The Union established that the route count and inspection that negatively adjusted the Grievant's route was not reliable. The Postal Service failed to consider necessary information that would have made the Grievant's route as near eight hours as possible.


 PETER J. CLARKE
 Arbitrator

ISSUE

Whether the Postal Service violated Article 19 of the national Agreement via M-39, Section 2 and/or M-41, Section 9 in the manner they evaluated and/or adjusted the Grievant's assigned route 04073? If so, what shall be the appropriate remedy?

STATEMENT OF THE CASE

The hearing opened as scheduled on January 17, 2018 at 9:00 a.m. at the Postal facility located at 809 W. Dallas Street in Conroe, Texas. The parties offered a Joint Exhibit (JX-2) consisting of 322 pages, excluding the Dispute Resolution Team's (DRT) decision. Both parties were afforded time for opening, direct and cross-examination of witnesses and closing arguments. The proceedings were taped to ensure the accuracy of the record.

RELEVANT CONTRACT PROVISIONS

Based on the facts adduced at the hearing, the Arbitrator has determined that the relevant contract provisions are the following:

Article 19 incorporates into the National Agreement, "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 the [National] Agreement."

Handbook M-39 (Management of Delivery Services) provides,

242.122

The proper adjustment of carrier routes means an equitable and feasible division of the work among all of the carriers' routes assigned to the office. All regular routes should consist of as nearly 8 hours daily work as possible.

Handbook M-41 (City Delivery Carriers Duties and Responsibilities) states,

911.2

The count of mail is used to gather and evaluate data to adjust routes fairly and equitably to insure that the workload for each route will be as near as possible to an 8-hour workday for the carrier.

RELEVANT FACTS

The Grievant, De'Andre Cloud, a city carrier at the Conroe Post Office, is assigned to route 04073 in the Conroe Post Office. During the week of February 11, 2017 through February 17, 2017, the Postal Service conducted route counts and inspections at the Conroe Post Office. The Postal Service selected the week of inspection (WOI) data from the Carrier Delivery Route-Summary of Count and Inspection Form (Form 1840) as representative street time upon which to base the route adjustment. The Postal Service did not consider auxiliary assistance provided to the Grievant during the WOI or any other time periods listed on Form 1840B. The Postal Service also did not consider the Grievant's comments he made during consultations. Based on the information obtained on the WOI, the Grievant's route received relief of approximately 49 minutes.

The Union filed a grievance on behalf of the Grievant contesting the route adjustment. At the Informal Step A the grievance was unresolved and was appealed to the Formal Step A level. The grievance was denied at the Formal Step A level and was appealed to Step B where the Dispute Resolution Team declared an Impasse. The grievance was then appealed to arbitration to be heard by this duly appointed arbitrator.

DISCUSSION AND OPINION¹

NALC's Position

The Union contends that the Postal Service violated Article 19 of the National Agreement along with Chapter 2 of the M-39 Handbook and Chapter 9 of the M-41 Handbook when on April 8, 2017 they made an inappropriate adjustment to route 04073. The Union argues the Postal Service made a number of improper calculations on several of the key evaluation forms including the Form 1838C and Form 1840-B. Specifically, the Grievant did not take breaks during the weeks of inspection and skipped most lunch periods and the Grievant did not receive credit for this time in the final evaluation in accordance with M-00230, dated March 17, 1982.

¹ Even though no reference may be specifically made, the Arbitrator considered all of the parties' contentions and reviewed the evidence and arbitration awards submitted.

Furthermore, Postal management failed to record the proper time on the Form 1840 when they excluded a day the regular carrier carried the route. The Grievant's remarks were also not considered during the evaluation consultation or after the adjustment consultation. The Grievant is still using overtime to complete the route on a regular basis.

In sum, the Union believes that the Postal Service's failure to properly adjust routes to as near to an eight (8) hours work per day as possible causes natural harm to Letter Carriers in the form of increased daily conflicts over how much time will be needed to complete a route, forced overtime, charges of unauthorized overtime, and late delivery to customers. For these reasons, the grievance should be sustained.

Postal Service's Position

The Postal Service argues that the route was properly adjusted following a complete route count and inspection as described in Chapter 2 of the M-39 Handbook. The only way the route can be adjusted now is by a special route count and inspection if warranted. However, there is no evidence that the route is using overtime since the route was adjusted to justify a special route count and inspection. Based on these reasons, the grievance should be denied in its entirety.

Analysis

This grievance calls into question the Postal Service's route count and inspection conducted in February 2017. The Union contends that the Postal Service failed to consider several factors that would have resulted in significantly different adjustment for the Grievant's route. The Postal Service believes that the route count and inspection were accurate and that there is currently no basis to have a new count and inspection. After a careful review of the record, the grievance is sustained for the reasons stated below.

Anne Taylor, the Union Steward for the Conroe Post Office testified that she carefully investigated the information used by the Postal Service to adjust the route. Among the many things the Postal Service failed to account for was Postal management excluded times they should have included and included days and times that should have been excluded when they completed Forms 1840-B. That caused the street time credit for the Conroe routes to be skewed

and not representative of a “fair days’ work. The Postal Service also failed to add auxiliary assistance to the total street time the carrier received.

Most telling, the Postal Service failed to conduct a route adjustment consultation with the regular carriers assigned to the Conroe Post Office routes. The Postal Service failed to discuss route inspection data, route examiner’s comments, the travel to route, travel from route, and street break time. In addition, the Postal Service failed to consider the suggestions for adjustments made by the regular carriers at the Conroe Post Office. Ms. Taylor systematically broke down, with specificity, each way in which the Postal Service failed to properly consider all available information to properly adjust the Grievant’s route. Finally, the Postal Service also failed to provide requested information to the Union. The requested information was documents that should have existed to support the Postal Service’s count and inspection. Without them, the reliability of the route adjustment is seriously called into question.

With such overwhelming evidence presented, it was clear to the Arbitrator that the route adjustment was not based on reliable data. Therefore, this grievance is sustained.

AWARD

Based on the foregoing, the grievance is SUSTAINED. The Postal Service shall CEASE and DESIST from any future violations of Chapter 2 (Section 242.122) of the M-39 Handbook, Chapter 9 (Section 911.2) of the M-41 Handbook, and National Level Settlement M-01661, Q01N-4Q-C 05022605 on COR in the Conroe Post Office. The Grievant’s route (77304-73) shall be immediately adjusted to as near eight hours of work per day as possible by reducing it by 48 minutes. All other relief requested by the Union is denied.

February 28, 2018

PETER J. CLARKE
Arbitrator