

Lance

Expedited Arbitration Panel/Midwest Region

In the Matter of Arbitration)
) Grievant: Sandra Deets
 between)
)
 United States Postal Service)
) Post Office: Des Moines, IA
 and) Case No.: 194C-4I-C 96080824
) 779611361
)
)
 American Postal Workers Union,)
 Local 44)

Before: THOMAS A. CIPOLLA

Appearances:

For the Postal Service: Maureen Drexler,
Labor Relations Specialist

For the Union: Kevin John Beener,
Union Advocate

Place of Hearing: Des Moines, IA
Date of Hearing: January 23, 1997
Date of the Award: January 25, 1997
Relevant Contract Provisions: Article 10, Items 4, 5, 6, 7, 8, 9, 10,
11, and 12 of Local Memorandum
Contract Year: 1994-1998
Type of Grievance: Contract
Award: The Postal Service violated the Local Agreement and past practice when it denied the Grievant's request for a vacation. The grievance is sustained.


Thomas A. Cipolla

AWARD SUMMARY

ISSUE

Did the Postal Service violate the National Agreement and/or the Local Memorandum and/or past practice when it denied leave requested by the Arbitrator for July 4 and 5 and August 29, 1996? If so, what is the appropriate remedy?

FACTS, ARGUMENT AND DISCUSSION

Sandra Deets (hereinafter "Grievant") filed a grievance when she was given back her 3971's for her fourth and sixth choice for annual leave. The 3971's indicated disapproval for the dates July 4 and 5 and August 30. July 4 and 5 of 1996 were Thursday and Friday respectively and August 30 of 1996 was a Friday. The Grievant works in a two-person department and normally has Tuesday and Wednesday off and the other person in her department, who is senior to her, has Friday and Saturday off.

The Postal Service indicated that these dates were denied because the other employee in the department, Brad Watson, was on approved annual leave. During the week of June 29 through July 5 Brad Watson was on approved annual leave for July 30 through July 3 with July 4th being his holiday and July 5th his regular day off. During the week of August 24 through the 30 Watson was approved for annual leave from August 25 through the 29 with August 30 being his regular day off.

The crux of the dispute between the Postal Service and the Union revolves around the percentage of employees allowed on vacation during a "choice" vacation time. The Local Memorandum of Understanding indicates that the choice vacation period will be May 1 through September 15 of the calendar year. The maximum number of employees who may receive annual leave during the choice vacation period is 10% for each section, except for June, July and August when a maximum of 14% will be allowed to leave. Also noted is in sections of less than 10 positions at least one employee must be allowed annual leave each week if applied for. The Postal Service contends that one employee, namely Watson, was off on annual leave for those dates noted hereinabove that were requested by the Grievant. The Union contends that those dates were either holiday (July 4) or standard days off for Watson (July 5 and August 30). Although Item 6 of the Local Memorandum of Understanding indicates that days off and holidays either at the beginning or the end of the vacation period shall be considered as part of the vacation period, that this language really protects the employee who is off from being forced to work either right before annual leave or right after annual leave. The Union contends that this language was never intended to

be used against another employee who requested these days for annual leave which happened to coincide with the senior employee's standard days off or holiday.

The Union provided evidence that standard days off and holidays are not usually counted as part of annual leave for determining the percentage of employees off on annual leave. It also introduced evidence that there were other employees who could have worked for the Grievant on those days.

The Postal Service relies upon the language of Item 6 of the Local Memorandum of Understanding regarding the characterization of days off and holidays at the beginning or end of annual leave as being considered "vacation" and that they can be used in calculating the percentage of employees off on annual leave. The Postal Service additionally argues that in a two-person department such as the one the Grievant was employed in that having both employees off at the same time creates a hardship on the service.

After reviewing the evidence presented and the arguments made, it appears to me that it appears to have been a practice established at the Des Moines Post Office wherein standard days off and holidays are not counted as part of annual leave for the calculation of the percentage of the total number of employees off in a particular section. Memos and correspondence between the Postal Service and the Union also support this conclusion.

Therefore, I find that the Grievant was unjustly denied her choice of annual leave for July 4 and 5 and August 30 of 1996 and that therefore the grievance should be sustained.

However, the Union has requested that I order the Postal Service to grant leave request to allow percentages on a daily basis without counting standard days off or holidays. It also requested that the Grievant be granted annual leave without regard to the allowed percentage in order to compensate her for her denied request in 1996. There is some question in my mind as to whether or not I am empowered to make such an order or directive effective upon the Postal Service, however, I will note that the Des Moines Post Office should follow its own practice and Local agreement with the Union and if these are cumbersome or burdensome to negotiate different provisions with the Union in the future. As to the request for annual leave for the Grievant, I believe that the Grievant is entitled to utilize whatever annual leave she has for 1997 and that she may take up to three (3) days of said leave regardless of whether it puts her section percentage over the maximum allowed.

SO ORDERED:

Thomas A. Cipolla

A handwritten signature in black ink, appearing to read "Thomas A. Cipolla". The signature is written in a cursive style with a large, sweeping initial 'T'.

DATED:

January 25, 1997