

AMERICAN POSTAL WORKERS UNION, AFL-CIO

GRIEVANCE
STATUS LETTER
(CENTRAL REGION)

GRIEVANT—PERSON OR UNION FROM LINE 8 (LAST NAME FIRST)		APWU-USPS NATIONAL GRIEVANCE
CLASS ACTION		#
WORK LOCATION CITY AND ZIP CODE FROM LINE 10		USPS REGIONAL GRIEVANCE
Des Moines, IA		#C7C-4K-C 8906
CONTRACT ISSUE	CRAFT	APWU REGIONAL GRIEVANCE
ART. 37.3.1, ELM 546, ART 13 & 19	Clerk	#None
TO Reassigning a Disable Letter	DATE	APWU LOCAL GRIEVANCE
Carrier to the Clerical Craft.	January 18, 1991	#77-88-3467

DIRECTOR, INDUSTRIAL RELATIONS
AMERICAN POSTAL WORKERS UNION, AFL-CIO
1300 L STREET, N.W.
WASHINGTON, D.C. 20005

D/A: 01/15/91 Reg.
SUSTAINED
ADVOCATE:
Carl F. Casillas

WITHDRAW FROM STEP 4 OR ARBITRATION

SETTLEMENT

ARBITRATION AWARD

NATL. CERTIFICATION

LOCAL CERTIFICATION

Arbitrator's Statement - Edwin H. Benn
\$1,372.42 -- D/H: December 6, 1990

ATTACHED IS DOCUMENTATION IN SUPPORT OF ACTION INDICATED.

The issue in this case was whether management violated Article 13.4.A and Article 37.A.1 of the Agreement when it offered Letter Carrier, Theresa Edwards a modified clerical position in the OWCP office at Des Moines.

The Union alleged that management in actuality created a new duty assignment and therefore, the assignment should have been posted as required under the provisions of Article 37.3.A.1

In addition, the Union alleged that management failed to make "every effort" to find Ms. Edwards work in the Clerk Craft as required under the provisions of Article 13, Section 4.

The arbitrator found that management did not violate the provisions of Article 37.3.A.1 since the evidence firmly established that the position of the OWCP office was specifically created for Edwards as a result of her medical restriction. He stated in part: "the position as it was constituted did not exist before it was created for Edwards and the position will exist only for the time that Edwards remains on these specific medical restrictions;..."

(Continued, Page 2)

JAMES P. WILLIAMS, COORDINATOR
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NBA, St. Louis Div. Office, APWU

January 18, 1991

However, he ruled that management violated the provisions of Article 13.4.A by not making every effort to find Ms. Edwards a job in the Carrier Craft consistent with her medical restrictions.

He instructed the Service to comply with the provisions of Article 13.4.A and make "every effort" to find work for Edwards in the Carrier Craft consistent with her medical restrictions.

JPW:esa

REGULAR REGIONAL ARBITRATION PANEL

In the Matter of the Arbitration
between
UNITED STATES POSTAL SERVICE
and
AMERICAN POSTAL WORKERS
UNION, AFL-CIO

GRIEVANT: Class Action
POST OFFICE: Des Moines, IA
CASE NO.: C7C-4K-C 8906
(Assignment of
Rehabilitation Position)

BEFORE: EDWIN H. BENN, Arbitrator

APPEARANCES:

For the U. S. Postal Service: Daniel Garza, Manager Labor Relations

For the Union: Carl Casillas, National Business Agent

Place of Hearing: Des Moines, Iowa

Date of Hearing: December 6, 1990

AWARD:

The grievance is sustained in part. The evidence establishes that the rehabilitation position given to Letter Carrier Theresa Edwards in the Des Moines, Iowa OWCP Office was not a "newly established craft duty assignment" within the meaning of Article 37.3.A.1. of the Agreement. Therefore, the Service was not required to post that position in the Clerk Craft prior to assigning that position to Edwards. However, under the circumstances of this case, the evidence establishes that prior to the assignment of that position in the OWCP Office to Edwards, the Service did not make "every effort" to reassign Edwards in the Carrier Craft as required by Article 13.4.A. of the Agreement. As a remedy, the Service shall now comply with the provisions of Article 13.4.A. and make "every effort" to find work for Edwards in the Carrier Craft consistent with Edwards' medical restrictions. In accord with Article 13.4.A. only "[a]fter all efforts are exhausted in this area" can Edwards keep the position in the OWCP Office.


Edwin H. Benn
Arbitrator

Date of Award: January 15, 1991

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I. ISSUE

Did the Postal Service violate Article 13.4.A. or Article 37.3.A.1. of the Agreement when it offered Letter Carrier Theresa Edwards a modified Clerk position in the Des Moines, Iowa OWCP Office and did so without first posting that position for bid in the Clerk Craft? If so, what shall the remedy be?¹

II. FACTS

By letter dated December 4, 1987 and effective December 12, 1987, the Service offered Letter Carrier Theresa Edwards a modified Clerk position in the Des Moines, Iowa OWCP Office without first posting that position for bid in the Clerk Craft. Edwards was offered that position after she suffered an on-the-job injury in August 1985 and further after it was medically determined that Edwards could not lift over five pounds; could perform no repetitive bending or stooping; and could not engage in prolonged standing or sitting.²

The job offered to Edwards in the OWCP Office (which she accepted on December 8, 1987) had a Monday through Friday, 7:00 a.m. to 3:30 p.m. schedule and required Edwards to perform the following duties (Jt. Exh. 5):

1. In charge of opening and dating mail.
2. Placing the assigned OWCP number on all correspondence.
3. Placing the assigned OWCP number on ledger card and files.
4. Type form letters.
5. Request form letters.
6. Inventory and order all supplies.
7. Answer phone.
8. Make copies on request.
9. Filing.
10. Matching correspondence with correct claims.
11. Receptionist
12. Create new folder for new claims including original CA-1.
13. Other miscellaneous duties as assigned.

¹ At the close of the hearing the parties argued this case orally and chose not to file briefs. Notwithstanding that choice, I received a letter dated December 7, 1990 from the Service's advocate which receipt was later strenuously objected to by the Union's advocate. Inasmuch as the parties agreed to orally argue this case and not file briefs, I have no authority accept the Service's letter and I therefore give its contents no consideration or weight. I have returned that letter to the Service's advocate along with a copy of this award.

² Edwards was placed on OWCP as disabled on August 30, 1985.

According to Injury Compensation Supervisor Joanne Rose, the position given to Edwards was offered pursuant to Part 546 of the ELM and the job was tailored specifically to meet Edwards' medical restrictions. Rose testified that prior to offering Edwards the position in the OWCP Office, she tried to find Edwards work in the Carrier Craft that was within Edwards' limitations. Rose testified that she contacted Carrier Supervisor Gary Benshoof who informed Rose that he did not have work like that for eight hours per day. According to Rose, Benshoof told her that perhaps he could come up with one hour per day of work that Edwards could perform. Rose then contacted Benshoof's supervisor, Area Manager Barbara Wong, who informed Rose that due to Edwards' limitations, the granting of Rose's request on Edwards' behalf was "out of the question". Rose also testified that she did not personally investigate to determine if there was work available for Edwards in the Carrier Craft. According to Rose, in making the decision that no work was available for Edwards in the Carrier craft, she relied upon the integrity of the information given to her by the supervisors concerning the work available for Edwards.

Rose further testified that she spoke to General Supervisor Michael Cronin in Mail Processing who also informed Rose that there was no work available for Edwards in his area. Further, with respect to the conversation with Cronin, Rose testified that Cronin was upset with the request to place a rehabilitation employee in his area because he generally frowns upon use of limited duty employees due to their limitations. According to Rose, Cronin "doesn't like to have them in his section."

Neither Benshoof, Wong or Cronin testified in this matter. Rose's testimony concerning what she was told by Benshoof, Wong and Cronin therefore could not be accepted in evidence for the truth of the matter asserted - i.e., that, in fact, no work existed for someone with Edwards' limitations. The testimony concerning the conversations with Benshoof and Wong regarding available work in the Carrier Craft for Edwards was accepted only for the non-hearsay purpose to show that as a result of what Rose was told

by those individuals, Rose took or did not take certain further action. The testimony concerning the conversation with Cronin had the same limitation. However, because Cronin is a supervisor and his admissions can therefore bind the Service, the testimony concerning the conversation with Cronin is not hearsay for the purpose of demonstrating that, in fact, Cronin had a disposition against the use of rehabilitation employees in his area.

With respect to the position offered to Edwards, Rose testified that no Clerk Craft employee was bumped or displaced. Further, with respect to that position, Rose testified that before Edwards began performing the duties in the OWCP Office, either Rose or Injury Compensation Specialist Larson performed the duties now being performed by Edwards. During cross-examination, Rose conceded that while she was aware of the requirements of Part 546 of the ELM, she was not familiar with the requirements of the Agreement for the making of rehabilitation assignments.

Local Union President Barbara Ver Steegh testified that after receiving a copy of the job offer given to Edwards, she requested a meeting with Rose and Manager Safety and Health Dean Doyle.³ Ver Steegh testified that she inquired why the position given to Edwards was not first posted in the Clerk Craft. In response, Ver Steegh was told that the duties were compiled specifically for Edwards and contact with supervision showed that no work was available for Edwards. Ver Steegh testified that at this meeting she was informed that the described contact by Rose was the totality of the efforts made to determine the availability of work in the Carrier Craft for Edwards. Ver Steegh further testified that she inquired of Rose and Doyle concerning whether work could be made available on the work room floor for Edwards and in response was told that work could have been made available, but that it was decided to create this specific position for Edwards.

³ Doyle also did not testify.

Ver Steegh testified further that in the past all Carriers except Edwards who were assigned as rehabilitation employees were given jobs in the Carrier Craft. The four employees referred to by Ver Steegh (*see* U. Exh. 1 - Ohrtman, Polly, Ritchey and Short) had different restrictions than Edwards resulting from their injuries.⁴ Ver Steegh also referred to employee Elanore Chapin who was given work at a modified letter case as a result of her injury.⁵ However, Chapin's restrictions were also different than Edwards' restrictions.⁶

Ver Steegh conceded that while in the past all Carriers were assigned within their craft, other employees who were on medical restrictions were assigned as rehabilitation employees to positions outside their craft. Particularly, in this regard, Ver Steegh referred to employees Wilson (a Clerk assigned in the Nurse's office) and Brennan (a Clerk assigned to Maintenance).⁷

Finally, Ver Steegh testified that presently, when these kinds of rehabilitation assignments are made, the Union is now consulted by the Service prior to the making of the job offer to the rehabilitation employee. According to Ver Steegh, as a result, the

⁴ See U. Exh. 2:

Employee	Restrictions
Ohrtman	"No lifting over 20 lbs. No bending, squatting, climbing, kneeling, twisting or heavy lifting. Stand and sit intermittently. No standing for long periods of time. Work only 25 hrs. per week."
Polly	"No lifting over 10 lbs. 2 hrs. of sorting with 15 minute break. 2 hrs. sorting after lunch with 15 minute break. Vary duties throughout day."
Ritchey	"No carrying route. No lifting over 20 lbs. No work above shoulder level."
Short	"No lifting over 15 lbs. Sitting as tolerated. Standing (intermittently) 15 min."

⁵ According to Ver Steegh, the modified letter case only required Chapin to work on the bottom three rows and a wing case was placed on the side also providing for work on the bottom three rows of that case. As a result, according to Ver Steegh, Chapin was able to adequately distribute mail while using a straight back chair.

⁶ See U. Exh. 2. Chapin was restricted to "10-20 lbs. with intermittent walking. No extensive bending, lifting or standing. To sit in straight-back chair with modified case. Work only 4 hrs. per day."

⁷ Ver Steegh testified that a grievance was filed over the Wilson assignment but was withdrawn as untimely filed.

Union is now given an opportunity to provide input into the assignment of jobs for rehabilitation employees.

III. DISCUSSION

A. Was The Service Required To Post Edwards' Rehabilitation Position In The Clerk Craft?

Clearly, after her injury and in accord with the substantial medical restrictions placed upon her, Edwards was offered the modified Clerk position in the OWCP Office under Part 546 of the ELM which governs the assignment of work to employees coming off OWCP roles. As stated in the grievance (*see* Step 2 Grievance Appeal (Jt. Exh. 2 at p. 5)), the Union argues that by failing to post the modified position given to Edwards in the OWCP office, the Service:

created a preferred duty assignment and awarded it to Ms. Edwards without considering Art. 37.3A.1. This preferred assignment was not posted for bid to employees in the clerk craft.

The Agreement states:

ARTICLE 37 CLERK CRAFT

* * *

Section 3. Posting and Bidding

A. Newly established and vacant Clerk Craft duty assignments shall be posted as follows:

1. All newly established craft duty assignments shall be posted for full-time craft employees eligible to bid within 10 days. ...

The threshold inquiry under this Article is whether the job created for Edwards was a "newly established craft duty assignment" with the meaning of Article 37.3.A.1. I am satisfied that it was not.

In *Case No. C7C-4L-C 14979* (Benn, 1990), I agreed with the rationale of Arbitrator Linda DiLeone Klein in *Case No. C1C-4E-C 31511* (Klein, 1986) concerning

the requirement to post for bid under Article 37 those jobs created for rehabilitation employees in accord with Part 546 of the ELM as follows (*id.* at 6-7, quoting *Case No. CIC-4E-C 31511* at 7-8):

The evidence establishes that the employees in question were offered jobs pursuant to Part 546.14 of the ELM. The jobs were "created" for these employees consistent with their individual medical restrictions and physical limitations. The jobs did not exist as full time positions prior to being created for the afore-mentioned employees who had job related injuries. However, the positions were not the newly created duty assignments referenced in Article 37, Section 3, A.1.

The positions at issue were created pursuant to Management's obligations under Chapter 540, and they were created for the express purpose of accommodating employees coming off the OWCP roles. The creation of such positions does not mean that new duty assignments exist which must be posted for bid for full-time regular craft employees. The new positions were not the job vacancies referenced in Article 37 or Part 546.211 of the ELM. If, for example, these assignments were posted for bid, how would the medically restricted employee know which position was consistent with his/her limitations? It is reasonable to conclude that the positions are not to be posted, but instead, limited duty assignments are made by Management based upon individual medical restrictions.

There was no evidence to show that these assignments were made to the detriment of full-time regular employees, and there was no evidence to demonstrate an intent for preferential treatment of ill or injured employees. Furthermore, the fact that some of the limited duty assignments have been long-term assignments does not mean that there is a need to establish additional bid positions. Management offers the limited duty assignments without specific time constraints. Also, an employee whose disability is not permanent is entitled to return to his/her former duty assignment when full recovery is made.

A careful reading of Chapter 540 reveals that there is no requirement to post limited duty assignments for bid among full-time regular employees prior to assigning said positions to ill or injured employees. These positions are not newly created craft assignments as contemplated by Article 37, Section 3, A.1. It appears from the evidence that limited duty assignments are exceptional situations which do not invoke the application of Article 37.

That rationale is equally applicable in this case. The evidence firmly establishes that the position in the OWCP Office was specially created for Edwards as a result of her

serious medical restrictions; the position as it was constituted did not exist before it was created for Edwards and the position will exist only for the time that Edwards remains on these specific medical restrictions; and there is no evidence to show that the assignment was made to the detriment of other employees. Therefore, the position created for Edwards was not a "newly established craft duty assignment" under Article 37.3.A.1. Hence, there was no requirement that Edwards' job in the OWCP Office be posted for bid in the Clerk Craft.⁸

B. Did The Service Make "Every Effort" To Find Edwards Work In The Carrier Craft?

However, notwithstanding the above finding that the Carrier was not required to post Edwards' OWCP position for bid in the Clerk Craft, there is serious question concerning whether the efforts made by the Service to obtain work for Edwards in the Carrier Craft were sufficient under existing requirements. Article 13 states [emphasis added]:

⁸ *Case No. SIC-3D-C 38040* (Moberly, 1985) relied upon by the Union is not on point. In that case, the injured employee was offered a position as a "general clerk" working, similar to this case, with the processing of paperwork resulting from injuries suffered by other employees. *Id.* at 3. The employee had a 30 pound lifting restriction described by the arbitrator as "not severe". The rationale for sustaining the Union's position in that case is found at p. 11-12 of Arbitrator Moberly's Award:

Mr. Shofner [the Safety Manager and Injury Specialist] testified that a place could have been found for Thrash [the injured employee] on the workroom floor. It was testified without contradiction that there has been no attempt to place Thrash in other positions. Yet, there were people on the floor with greater restrictions than Thrash. ... The effect was to bypass the bidding procedure and give a rehabilitated employee from another craft priority over senior clerk craft employees who, in some instances, had even more work restrictions than Thrash.

While similarities do exist with this case, the critical distinguishing factors from this case are the differences in restrictions (the employee in the Moberly Award had a 30 pound lifting restriction while Edwards was subject to a five pound lifting restriction) and the fact that other employees with greater restrictions were given work elsewhere in the facility. Here, the evidence shows that of all of the other employees pointed to by the Union, Edwards had the severest medical restrictions.

Case No. S4T-3F-C 22386 (Foster, 1988) cited by the Union is similarly not on point. There, the injured employee's "principal duty for some six months ... was completing 3760 forms ..." *Id.* at 3-4. The Arbitrator concluded (*id.* at 5) that "there is no evidentiary indication that the actual work performed was of a confidential nature or otherwise excluded from normal Clerk Craft duties" which led to "the compelling conclusion that he is performing this Clerk Craft duty on a full-time basis." Given the variety of duties performed by Edwards in the OWCP Office, which duties were formerly performed by exempted individuals Rose and Larson, I am not satisfied in this case that a similar "compelling conclusion" can be made that Edwards "is performing this Clerk Craft duty on a full-time basis".

ARTICLE 13

ASSIGNMENT OF ILL OR INJURED REGULAR WORKPLACE EMPLOYEES

* * *

Section 4. General Policy Procedures

A. *Every effort shall be made to reassign the concerned employee within the employee's present craft or occupational group, even if such assignment reduces the number of hours of work for the supplemental work force. After all efforts are exhausted in this area, consideration will be given to reassignment to another craft or occupational group within the same installation.*

Priorities are also established under Part 546 of the ELM governing the assignment of rehabilitation employees and the requirement of the incorporation of the provisions of the Agreement (here, the "every effort" requirements of Article 13.4.A.). See Part 546 [emphasis added]:

.14 Disability Partially Overcome

.141 Obligation. When an employee has partially overcome the injury or disability, the USPS has the following obligation:

a. *Current Employees.* When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance ... The following considerations *must* be made in effecting such limited duty assignments:

(1) To the extent that there is adequate work available within the employee's work limitation tolerances; *within the employee's craft*; in the work facility to which the employee is regularly assigned; and during the hours when the employee regularly works; that work constitutes the limited duty to which the employee is assigned.

(2) If adequate duties are not available within the employee's work limitation tolerances *in the craft* and work facility to which the employee is regularly assigned, within the employee's regular hour of duty, other work may be assigned within that facility.

* * *

546.2 Collective Bargaining Agreements

Reemployment under this section will be in compliance with applicable collective bargaining agreements. Individuals so reemployed will receive all appropriate rights and protection under the applicable collective bargaining agreement.

.21 Contractual Considerations

.211 Scope. Collective bargaining agreement provisions for filling job vacancies and promotions, and procedures relating to retreat rights due to reassignment, *will be complied with* before an offer of employment is made to a former postal employee on the OWCP rolls for more than 1 year.

Therefore, based upon the above, in making rehabilitation reassignments to employees coming off the OWCP roles, under Part 546 of the ELM, it is incumbent upon the Service to follow the Agreement which, in this case, under Article 13.4.A. required the Service to make "every effort" to find work for Edwards in the Carrier Craft before establishing an assignment outside of that craft. The question then in this case is does the evidence show that the Service made those kinds of efforts? I find that the *evidence* in this matter fails to establish that the Service did so.

The Service relied solely upon the testimony of Injury Compensation Supervisor Rose to show what was done in this case to meet the "every effort" standard imposed by Article 13.4.A. Close examination of Rose's testimony shows that she made two brief contacts (one with Carrier Supervisor Benshoof and one with Area Manager Wong) before determining that no work was available for Edwards in the Carrier Craft. That is the extent of the effort exhibited by the evidence in this case. No probative *evidence* was offered by those individuals directly over the Carrier operations to explain what work did or did not *actually* exist for Edwards in light of her specific limitations. Those individuals did not testify. Again, Rose's testimony concerning the conversations that Rose had with Benshoof and Wong was only received for the fact that Rose made the contacts. The substance of the calls was hearsay and ruled as such. By Rose's admission, Rose was not

in a position to know what work did or did not exist - she only made the contacts with those who ostensibly had that knowledge.

Certainly, Rose can, as she testified, rely upon her supervisors for information. But that good faith reliance is not the standard in this proceeding. Article 13.4.A. required that "every effort shall be made ... [until] all efforts are exhausted" to find work for Edwards in the Carrier Craft. [Emphasis added]. Without the testimony of those having direct knowledge concerning what work was or was not available for Edwards, I cannot find that these brief and limited contacts meet the requirement for the Service to make "every effort" to find work for Edwards in the Carrier Craft. To make such a finding would reduce the requirement of that section to words with little meaning. This is especially true in this case considering the status of the record given Rose's inquiries to General Supervisor Cronin. Rose testified that Cronin had an admitted dislike for employees in Edwards' condition who were assigned to him. Given Cronin's predisposition against rehabilitation employees, more should have been done than merely accepting Cronin's statement that he had no work available for Edwards in his area. If Rose was going to rely upon the rejection of an employee by a supervisor who had such an admitted predisposition against using employees like Edwards, then some showing with direct probative evidence had to be made in this case to demonstrate that notwithstanding that supervisor's predisposition, no work was actually available. That was not done.⁹

⁹ Rose's concession that her efforts to find work for Edwards were guided only by the requirements of Part 546 of the ELM and that she was not familiar with the requirements of the Agreement further leads to the conclusion that in making the determination that no Carrier work was available for Edwards in the Carrier Craft Rose did not follow the "every effort" mandate found in Article 13.4.A. The substance of this portion of Rose's testimony leads to the conclusion that although Rose knew that she had to look for work for Edwards in the Carrier Craft, she did not know the degree to which such search had to be accomplished.

Therefore, I must conclude that the Service did not make "every effort" to find work for Edwards in the Carrier Craft prior to making the rehabilitation assignment to Edwards in the OWCP Office.¹⁰

C. The Remedy

Because I have found that the position formulated for Edwards was not a "newly established craft duty assignment" within the meaning of Article 37.3.A.1., the Service shall not be required to post that position in the Clerk Craft.

However, the evidence does show that the Service did not make "every effort" to reassign Edwards to a Carrier Craft position prior to offering her the position in the OWCP Office. In accord with the mandate found in Article 13.4.A., the Service is therefore directed to now make "every effort" to find a job in the Carrier Craft that Edwards can perform consistent with her medical restrictions. *See Case No. EAC-2F-C 45966* (Parkinson, 1989) involving an injured Mail Handler who was assigned to a Clerk Craft position where the evidence demonstrated (*id.* at 15) that "there was no indication as to

¹⁰ Cf. *Case No. C7C-4L-C 14979, supra*, where this Arbitrator denied a similar grievance but found, based upon the presented evidence that "the evidence shows ... Lang's medical restrictions prohibited Lang from performing any other Clerk or Carrier craft job" *Id.* at 7. [Emphasis in original].

The Union's arguments concerning the past placement of other injured Carrier's into the Carrier Craft are therefore moot. But in passing, the treatment of other Carriers does not aid much in the assessment of whether or not the treatment of Edwards violated the Agreement. These cases must be examined on a case-by-case basis and it is very difficult to find two employees with similar medical restrictions and similar job availabilities. For example, none of the employees referred to by the Union had lifting restrictions as severe as Edwards. Further, it has not been demonstrated if the work availability at the time the other employees were given assignments in the Carrier Craft was the same at the time Edwards was given the assignment in the OWCP Office. In order for the disparate treatment type argument advanced by the Union to prevail, those kinds of factors must be demonstrated.

The authority relied upon by the Service does not change the result. *Case No. HIC-5D-C 2128* (Aaron, 1983) did not address the specific question here concerning the factual demonstration of what efforts the Service undertook before determining that no work was available for a rehabilitation employee. That case dealt with the general proposition that job offers to employees partially recovered from injuries can be made in another craft. That general right is not contested by the Union in this matter. Similarly, *Case Nos. EIC-2W-C 5691 et al*, (McConnell, 1983) only address the general right to make a cross-craft assignment and not the specific questions at issue herein. Likewise, the specific holding in *Case No. HIC-4K-C 17373* (Mittenthal, 1985) addresses the question of whether a vacancy attributable to a permanent reassignment of an employee from the Carrier Craft to the Clerk Craft pursuant to Part 540 of the ELM must be posted for bid in the Clerk Craft. That question is not an issue in this case. Finally, *Case No. A-C-N 6922* (Snow, 1990) addresses the question of performance of bargaining unit work by supervisors - an issue that is also not before me.

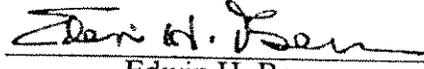
why Mr. Barry could not be accommodated within the Mail Handler Craft.” The formulated remedy in that case (*id.* at 16) was to direct the Service to “exhaust all efforts to reassign Mr. Barry, consistent with his medical restrictions, to a position within the Mail Handler Craft.” That remedy is applicable to this case.

Under Article 13.4.A. Edwards may keep her job in the OWCP Office, but only “[a]fter all efforts are exhausted in this area”. Hopefully, given the evidence showing the newly-established direct line of communication between the Service and the Union for future formation of rehabilitation positions, these kinds of disputes will be avoided. But for now, because of the lack of direct reliable evidence concerning what work was or was not available for Edwards in the Carrier Craft, the remedy in this matter must be to require the Service to comply with the Agreement and make “every effort ... to reassign the concerned employee within the employee's present craft or occupational group”

IV. AWARD

The grievance is sustained in part. The evidence establishes that the rehabilitation position given to Letter Carrier Theresa Edwards in the Des Moines, Iowa OWCP Office was not a “newly established craft duty assignment” within the meaning of Article 37.3.A.1. of the Agreement. Therefore, the Service was not required to post that position in the Clerk Craft prior to assigning that position to Edwards. However, under the circumstances of this case, the evidence establishes that prior to the assignment of that position in the OWCP Office to Edwards, the Service did not make “every effort” to reassign Edwards in the Carrier Craft as required by Article 13.4.A. of the Agreement. As a remedy, the Service shall now comply with the provisions of Article 13.4.A. and make “every effort” to find work for Edwards in the Carrier Craft consistent with Edwards’ medical restrictions. In accord with Article 13.4.A. only “[a]fter all efforts are exhausted in

this area" can Edwards keep the position in the OWCP Office.



Edwin H. Benn
Arbitrator

Dated: January 15, 1991