

For Lance

**REGULAR ARBITRATION PANEL**

IN THE MATTER OF THE ARBITRATION

BETWEEN

**EMPLOYER**

UNITED STATES POSTAL SERVICE

AND

**UNION**

AMERICAN POSTAL WORKERS UNION,  
AFL-CIO

**GRIEVANT: CLASS ACTION**

**POST OFFICE:**

DES MOINES P&DC

**CASE NO: I94C-1I-C 97102090**

**BEFORE: GEORGE EDWARD LARNEY**

**APPEARANCES:**

FOR THE POSTAL SERVICE:

MARCIA GRANT

Labor Relations Specialist

FOR THE UNION:

BRUCE CLARK

President, Iowa Postal  
Workers Union

**PLACE OF HEARING:**

1165 Second Avenue  
Des Moines, IA 50318

**DATE OF HEARING:**

MARCH 28, 2000

**DATE OF AWARD:**

FEBRUARY 24, 2001

**CONTRACT YEAR:**

1994-1998

**TYPE OF GRIEVANCE:**

Contract

**AWARD SUMMARY**

Postal Service Management did not violate Article 11 of the National Agreement (Jt. Ex. 1) by the way in which it staffed the 1997 Memorial Day weekend holiday days of May 24, 25 and 26. Accordingly, the Arbitrator rules to deny the subject grievance in its entirety.

**GRIEVANCE DENIED.**

  
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GEORGE EDWARD LARNEY  
Arbitrator

WITNESSES: (in order of respective appearance)

FOR THE EMPLOYER

FOR THE UNION

PATRICIA LADURINI  
Acting Manager Distribution  
Operations (MDO), Tour 1

MICHAEL (MIKE) D. GILLESPIE  
APWU Safety Representative

BRYON PREMINGER  
Union Steward, Tour 3

ISSUE

At the hearing, the Parties stipulated that the issue properly before the Arbitrator for resolution on the merits is as follows:

Did Postal Service Management violate applicable provisions of the National Agreement (Jt. Ex. 1) by the manner in which it staffed the Tour 1 Automation area for the three (3) day period encompassing the 1997 Memorial Day Holiday?

If so, what shall be the proper remedy?

RELEVANT DOCUMENTATION

- I. APPLICABLE CONTRACT PROVISIONS (Jt. Ex. 1)  
§§ 11, 15, 19
- II. 1994-1998 LOCAL MEMORANDUM OF UNDERSTANDING (Jt. Ex. 3)  
Item 13, The Method of Selecting Employees to Work on a Holiday
- III. OTHER (Un. Ex. 8)  
Memorandum For All Postmasters Re: March 4, 1974 Settlement Agreement Pertaining to Application of Article 11

BACKGROUND

The instant case involves the scheduling of employees on Tour 1 in the Automation section of the Des Moines P&DC for the Memorial Day Holiday weekend in 1997. As the Tour 1 hours begin at either 10:30 p.m. or 11:00 p.m. and end on the next day at 7:00 a.m. or 7:30 a.m., the days in question begin Friday night into Saturday morning, here designated as May 24, 1997; Saturday night into Sunday morning, May 25, 1997; and Sunday night into Monday morning, May 26, 1997 (Monday being Memorial Day).<sup>1</sup>

According to the record evidence, there are a total of twenty (20) various machines that are operated in the Automation section and each machine is staffed by a total of two (2) employees.<sup>2</sup> Altogether, therefore, the minimum number of employees required to staff the Automation section is forty (40) assuming that all machines are in operable condition and scheduled to run. There was no evidence submitted in this arbitral proceeding that contradicted the normal expectation that all twenty (20) machines were operable and scheduled to run on each of the three (3) days in question. According to the uncontradicted written evidence submitted, there were, at the time this Memorial Day Holiday occurred, a total of fifty-one (51) full time regular employees assigned to Tour 1 of the Automation section.<sup>3</sup> According to a written statement

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<sup>1</sup> According to APWU Safety Representative, Mike Gillespie, when employees on Tour 1 are scheduled to work on a holiday, Management attempts to start all employees on the earlier tract hours of 10:30 p.m. to 7:00 a.m. However, a review of the clock rings for some of the employees who were forced in to work the actual Memorial Day Holiday, Monday, May 26, 1997, reflects that employees who normally were scheduled in at 10:30 p.m. reported for work at 10:30 p.m. and those regularly scheduled to begin tour at 11:00 p.m. reported in for work at 11:00 p.m. (see Un. Ex. 7A and Un. Ex. 2C).

<sup>2</sup> These twenty (20) machines consist of the following (Un. Grp. Ex. 6):

Six (6) OCRs	Eight (8) DBCSs
Five (5) BCSS	One (1) LMLM

<sup>3</sup> The Arbitrator notes for the record that this total of 51 does not conform with the total testified to by the Union's only witness, Safety Representative, Mike Gillespie, who attested that the total was 53. In arriving at the lower total of 51, the Arbitrator excluded the following employees from the count of those employees listed on the Seniority/Overtime Desired List (Un. Exs. 2A, 2B, 2C): Thomas Witt, Alice West, Margaret Garrison, Beverly  
(continued...)

regarding scheduling of employees on the three (3) days in question (Sat., May 24th, Sun., May 25th, and Mon., May 26th) authored by Union Steward, Laura Kimrey (Un. Grp. Ex. 6), Postal Management scheduled 47 employees to work on Tour 1 on Saturday, May 24th, 39 employees to work on Sunday, May 25th, and 41 employees to work on Monday, May 26th. Of the total of 47 employees scheduled in to work Saturday, May 24th, four (4) were Temporary Employees (TEs), three (3) were Part-time Flexibles (PTFs), two (2) were Casuals, and the remaining thirty-eight (38) were Full-time Regular Tour 1 employees in the Automation section (Un. Ex. 3 and Un. Ex. 2A). A perusal of the written posting sheet for this day/date reveals that for reasons not explained at hearing only thirty-seven (37) Full-time Regular employees actually worked on that day/date (Un. Grp. Ex. 6). Of this total of 37 employees, eleven (11) were regularly scheduled to work the tour, five (5) volunteered to work the Holiday and the remaining twenty-one (21) were forced to work the holiday. Of this latter total of twenty-one (21) employees, three (3) were forced in on their scheduled day off and the remaining eighteen (18) employees were forced in to work the Holiday (Un. Ex. 3). In her written statement, Union Steward Kimrey asserted that on a regular scheduled (non-holiday) Friday night, 45 employees (referred to by Kimrey as bid holders) are assigned to work Tour 1 yet, on this Friday night, May 24, 1997, Management scheduled in 47 employees, two (2) more than the number of employees utilized on a routine Friday night. Kimrey similarly contended that Management engaged in the same overstaffing of Tour 1 on the remaining holiday weekend days of Saturday, May 25th and Sunday, May 26th. According to Kimrey, on a regular scheduled Saturday night, 24 bid holders are utilized yet on Saturday night, May 25th, Management brought in an additional fifteen (15) employees. On a regular scheduled Sunday night, 27 bid holders are utilized yet, on Sunday night, May 26th, Management brought in an additional fourteen (14) employees. According to Kimrey, these extra employees were used either as an extra tie-out crew and/or a relief crew. However, Kimrey asserted in her written account, these extra employees were not needed for the operation of the machines as on many non-holiday nights, tie-out crews and relief crews are not utilized since the practice in Automation is that on Saturdays and Sundays, everyone in the section goes on break at the same time. Kimrey asserted that, as a result of this practice, no more than 40 employees were needed to operate the machines in the Automation section on Saturday night, May 25th and Sunday night, May 26th. Other record evidence reflects that on Friday night, May 24th, two (2) employees, one of whom was forced to work the Holiday and the other employee who volunteered to work the Holiday, were released to leave work early

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<sup>3</sup>(...continued)

Ellis, and Perry Johnson. In cross checking the Seniority/ODL List with the Tour 1 Roster (Un. Ex. 1), eliminating the additional names of David Gustason and Mary McFadden, this list too yields a total of 51 Tour 1 employees.

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by one-half (1/2) hour; that on Saturday night, May 25th, two (2) employees, both of whom were forced into work on their day-off, were released to leave work early by one-half (1/2) hour; and that on Sunday night, May 26th, fifteen (15) employees, nine (9) of whom were forced to work the Holiday and the remaining six (6) employees forced to work their day-off were released to leave work early by an amount of time ranging from as little as 1.61 hours early to as much as 5.45 hours early (Un. Ex. 7B).

Looking at the evidence from another perspective, a total of 21 employees were forced to work the Holiday on Friday night, May 24th, twelve (12) employees were forced to work the Holiday on Saturday night, May 25th and 23 employees were forced to work the Holiday on Sunday night, May 26th. Union Safety Representative, Gillespie, asserted in his testimony that as a result of the way in which Management staffed the subject three (3) days of the Memorial Holiday weekend, no employee received a holiday on Friday night, May 24th, no employee received a holiday on Saturday night, May 25th and only six (6) employees received a holiday off on Sunday night, May 26th.

Tour 1 Acting Manager Distribution Operations (MDO), Patricia Ladurini testified that, in accord with Item 13 of the Local Memorandum of Understanding (Jt. Ex. 3), a list was posted timely apprising of the number of employees needed and the skills required in the Automation section affording employees the opportunity to volunteer to work the holiday or designated holiday and to solicit regular employees desiring to work their non-scheduled day for overtime. Further, in accord with Item 13 of the LMOU, she and Union Steward, Steve Chevalier reviewed the holiday schedules for each of the three (3) days in question prior to their final posting. During this review, according to Ladurini, certain names appearing on the list are blacked out for the following reasons: (1) employee is on annual leave; (2) employee is on extended sick leave; (3) employee bid out of section when holiday begins; (4) employee reneged volunteering to work on the holiday; and (5) any supervisory errors in the names appearing on the list. Ladurini related that after this review occurred, the revised holiday schedules for the three (3) days in question were re-posted in a timely manner (at least six days in advance of the commencement of the Holiday weekend) for the purpose of confirming those employees who volunteered to work the Holiday and to inform those employees who were being forced to work the Holiday. Ladurini explained that the number of employees needed to work each of the Memorial Day weekend days is predicated on daily condition reports for the year before as provided by the Mail Operational Data System (MODS) combined with the current mail volume. In any event, Ladurini noted in her testimony that staffing decisions based on this forecast of operational needs are made three (3) weeks in advance of an upcoming holiday. Ladurini testified that after ascertaining staffing needs for each section (the Automation section included) and comparing those staffing needs to the number of employees who

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volunteer to work the overtime, Management then proceeds to address any shortfall in staffing levels by following the pecking order as set forth in Section 2 of the LMOU, to wit:

1. Casual employees
2. Part-time flexible employees
3. All regular employees who have volunteered to work on their holiday or day designated as their holiday
4. All regular employees who have volunteered to work on what would otherwise be their non-scheduled work day
5. All regular employees who have not volunteered to work on their holiday, day designated as their holiday or in an overtime status, by juniority

Ladurini asserted that on the basis of the staffing level forecast, fifty (50) employees were required to work on Friday night (into Saturday), May 24th; forty (40) employees were required to work on Saturday night (into Sunday), May 25th; and on Sunday night (into Monday), May 26th, at least fifty (50) employees but as many as it is possible to bring in. Ladurini explained that the ten (10) additional employees scheduled to work on Friday night (into Saturday), May 24th (above the minimum 40 required to run the 20 machines in Automation) are utilized for relief for meals and for break times. On Saturday night (into Sunday), May 25th, only forty (40) employees are required as there are no meals or break times on this Tour. On Sunday night (into Monday), May 26th, Ladurini explained as many employees as can be brought in are utilized because even though there is no mail delivery on Monday, Memorial Day, all dispatches are still made Sunday morning at 4:30 a.m. for mail delivery to the 234 cities serviced by the P&DC.

Ladurini testified that on Friday night, May 24th, she utilized not only the 47 employees whose names appear on the list (Un. Ex. 3) but she also utilized the services of some employees on Tour 3 who had not maxed out their sixty (60) hours for the week.<sup>4</sup> Ladurini

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<sup>4</sup> It is noted by the Arbitrator that this list (Un. Ex. 3) for Friday night (into Saturday), May 24th, bearing the names of 47 employees designated them according to the following categories of employee status:

- |    |   |
|----|---|
| 11 | Regular Full-time employees scheduled to work |
| 4  | Temporary employees                           |

(continued...)

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also testified that 39 employees had been identified to work on Saturday night (into Sunday), May 25th, but that she only utilized the services of 35 employees. Ladurini further testified that of the 41 employees appearing on the Holiday schedule, for Sunday night (into Monday), May 26th, she utilized the services of 40 employees. According to Ladurini, on all three (3) days in question, all Casual employees and Part-time Flexible employees were scheduled in to work and to this group of employees was added Temporary employees (see fn. 4). Ladurini explained that a number of employees who were brought in to work on Sunday night (into Monday), May 26th, had requested in advance of Sunday night or, at the time they reported for work on Sunday, to leave work early and that she honored this request for fifteen (15) employees forced to work the Holiday (according to Un. Ex. 7B), as the volume of mail on hand had been processed to as far as it could be processed and employees who are forced to work the Holiday cannot be moved and assigned other duties. Ladurini further explained that mail volume counts are performed throughout the night and that any determination to release employees early from work can only be made an hour in advance of releasing them.

Ladurini defended her scheduling of the number of employees she utilized on Friday night (into Saturday), May 24th, noting that the needs of a Friday night, even given the fact May 24th was one of the three (3) Holiday weekend days, are greater than the Saturday and Sunday nights of the Memorial Day weekend Holiday because Saturday is a delivery day for mail whereas, Sunday and Monday are not delivery days for mail. Additionally, mail volume on Friday nights is heavier than Saturday and Sunday nights. Also, meals and break times which are covered by reliefs on Friday nights do not occur on Saturday nights. Furthermore, since prime time vacations begin on May 1st of each year, there are a number of employees utilizing annual leave when the Memorial Day Holiday occurs, thus limiting the flexibility for scheduling needed staffing levels for this Holiday, according to Ladurini. Ladurini asserted that had she not forced every Regular Full-time employee into work on Friday night, either there would have been delayed mail or additional costs would have been incurred as a result of arranging extra transportation for the mail that did not meet the 4:30 a.m. dispatch time.

The subject grievance initiated at Step 1 on June 5, 1997 (Jt. Ex. 2), alleges that on all three (3) days of the Memorial Day weekend Holiday, Management required more employees to work than there are

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<sup>4</sup>(...continued)

2	Casual employees
4	Part-time flexible employees
5	Regular Full-time employees (volunteers)
21	Regular Full-time employees forced in to work the Holiday

machine positions thus violating Article 11, Section 6(B) of the National Agreement (Jt. Ex. 1) which provides that as many full-time and part-time regular scheduled employees as can be spared will be excused from duty on a holiday or day designated as their holiday. The Union requests as a remedy that all forced employees be paid an additional 50% of the straight-time hourly rate for all hours worked on these days as a make whole remedy for all losses borne by the Grievants. It is noted that Laura Kimrey, the Union Steward who authored a written statement of the situation culminating in the instant grievance, is the same Union official who filed the Step 2 appeal of the grievance. In her written statement, Kimrey elaborated as to the motivation of Management for overstaffing the three (3) Holiday days in question as follows:

The bottom line is that Management is forcing more employees in on Holiday schedules than we have regular day bid holders. They are using Holiday schedules as a clean-up day. They are using Holiday schedules as a punishment for employees using sick leave, and they are also bringing in more employees for the area than they have room for on the machines. We can only use 2 employees on each machine and if you add the machines up staffed with 2 employees, then you should never need more than 40 to be fully operational.

In its written Step 2 denial of the grievance, Management took issue with the Union's contention that each of the 20 pieces of equipment in the Automation section requires the services of only two (2) employees and, furthermore, asserted that it complied with all of its Article 11 obligations in staffing each of the three (3) Memorial Holiday weekend days in question. In brief, Management asserted the following contentions:

- 1) Article 11 grants Management the authority to determine the number of employees who will be needed and that it followed the process for making this determination.
- 2) In accord with Article 11, all Tour 1 Casuals and Temporary employees were utilized.
- 3) Allegation by the Union that only 38 (sic) employees are necessary to staff the Automation section on a Holiday fails to take into consideration the need for relief to operate the equipment during breaks and lunches, necessary manpower for tie outs of sort programs ... and managing other duties such as labeling (all such duties known as allied labor).

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- 4) On nights other than a Holiday, more than the 38 employees the Union is claiming as necessary on a Holiday are utilized. ... operational needs do not change just because a day is identified as a holiday on a calendar.
- 5) If only 38 employees were utilized, the result would be that equipment would sit idle during breaks, meals, tie outs and, therefore would impact the Postal Service's ability to provide service to its customers.
- 6) The Union's claim that the quarterly OTDL from other tours be utilized is without merit as said list is separate from the Holiday posting.
- 7) The remedy requested that affected employees be paid 100% additional at straight-time rate of pay is not appropriate.

As the Parties were unable to reach a mutually satisfactory resolution of the instant issue in dispute at the preceding lower steps of the grievance procedure, the matter comes now before this Arbitrator for a final and binding determination.

OPINION

It is obvious from the record evidence in its entirety before the Arbitrator that the Union's position in this case is both inconsistent and overall non-compelling. In her detailed written statement of the situation which resulted in filing of the subject grievance, Union Steward Kimrey asserted that it should never be necessary to need more than 40 employees to be fully operational (said figure of 40 computed on the basis of staffing 2 employees per machine given 20 machines in the Automation section) yet, she also acceded to the fact that on a regular scheduled Friday night (a non-holiday Friday night), the Automation section is staffed with a total of 45 bid holders (Un. Grp. Ex. 6). The record evidence clearly substantiates that given the number of Regular Full-time employees that volunteered to work the Friday Holiday (into Saturday), May 24th, combined with the number of Tour 1 Temporary employees and Casuals, in addition to the number of Part-time Flexible employees and regularly scheduled employees whose holiday was not Friday, and, taking into account that there were about five (5) Tour 1 employees not available to work as a result of being on prime time vacation leave, that it was necessary to force into work all remaining Tour 1 Full-time Regular employees. This operational need is further substantiated by the uncontravened testimony of Supervisor Ladurini, that it was necessary to utilize the services of Tour 3 employees on Friday night in addition to those Tour 1 employees forced into work in order to process the volume of mail at hand that night and to provide the allied labor that is typically performed on Friday nights irrespective of being a holiday weekend day. The argument asserted by the Union in support of its position with respect to Saturday night (into Sunday), May 25th, is completely without merit as Ladurini's uncontradicted testimony reflects that while 39 employees were on the posted schedule to work that night (one less employee than Kimrey asserted in her written statement it was never necessary to utilize), she was able only to utilize the services of 35 employees. It appears that in light of the fact that a total of fifteen (15) employees were released on Sunday night (into Monday), May 26th, to leave work early that something was amiss in the scheduling on this night but, when one considers the situation in greater depth it becomes evident that such overstaffing was completely inadvertent and cannot be attributed to any deliberate action by Management to deny Regular Full-time and Part-time employees their contingent right not to work on a holiday or designated holiday. Ladurini's uncontested testimony was that on any given Sunday night, as many employees as 50 and above are scheduled in to work and that the mail volume supports this level of staffing. On this Sunday night (into Monday), May 26th, however, Ladurini had only 41 employees scheduled to work but, ultimately wound up with utilizing the services of 40 employees. Thus, given past experience, there was no basis for Ladurini to conclude that the services of 40 employees on this night would

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exceed by as many as fifteen (15) employees the operational need for staffing. As the Postal Service argued at hearing, this overstaffing would not have been accurately forecasted in advance and only looks bad in retrospect, a situational circumstance open to criticism on the basis of Monday quarterbacking a Sunday football game.

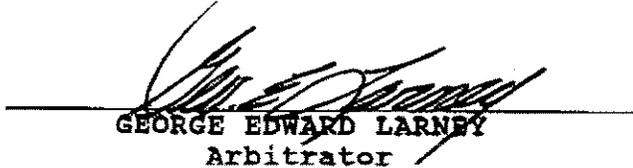
In her written statement of the case, Kimrey levelled some serious allegations regarding Management's motivations for engaging in deliberate acts of overstaffing holidays which were noted in the preceding Background section of this Award. None of these allegations were supported by any evidence proffered by the Union. However, assuming arguendo these allegations had some merit, the fact is, that if the Union really believes Management overstaffs holidays to penalize employees, the time to challenge Management on this score is at the time when it participates in the review of the posted holiday lists before the final lists are posted. In that the Union signed off on the posted lists for the three (3) days in question, May 24, 25 and 26, 1997, is proof sufficient enough by itself to reject the instant grievance.

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A W A R D

Based on the rationale set forth in the preceding Opinion section, the Arbitrator finds that Postal Service Management did not violate applicable provisions of the National Agreement (Jt. Ex. 1) but, most specifically Article 11 by the manner in which it staffed the Tour 1 Automation section for the three (3) Memorial Day weekend days of Friday, Saturday, Sunday, May 24, 25 and 26, 1997 respectively. Accordingly, the Arbitrator rules to deny the subject grievance in its entirety.

GRIEVANCE DENIED.



GEORGE EDWARD LARNBY  
Arbitrator

Chicago, Illinois  
February 24, 2001