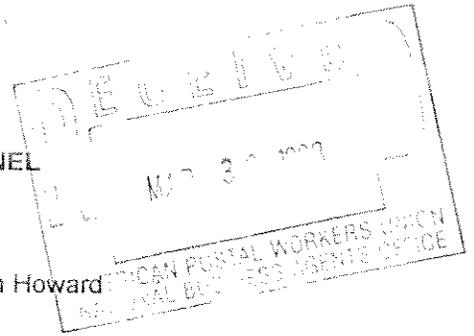


MIDWEST EXPEDITED ARBITRATION PANEL



In The Matter of Arbitration)
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 between)
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 UNITED STATES POSTAL SERVICE)
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 and)
)
 AMERICAN POSTAL WORKERS UNION)

Grievant: Susan Howard
Post Office: Des Moines, IA
Case No: I94CI C 97044770 779612133

Before Michael D. Gordon, Arbitrator

Appearances:

For the Postal Service: Marcia G. Grant
For the Union: Carl Casilas
Place of Hearing: Des Moines, IA
Date of Hearing: March 27, 1998
Date of Award: March 28, 1998
Award: Grievance denied

AWARD SUMMARY

Issue: Whether the Employer violated the contract when it scheduled Grievant to work the Veteran's Day holiday (November 11, 1996) and did not schedule a volunteer (Polli Petersen); and, if so, what shall be the remedy?

Facts: Grievant was the senior Tour 3 employee required to work on the Flat Sorter Machine (FSM) on Veterans' Day, November 11, 1996. Petersen volunteered for "any areas" on the holiday but was not used because Manager Distributions Operations Roger West concluded she was unqualified for the FSM.

Petersen apparently started work as a FSM Operator on May 18, 1991, but suffered an on-the-job injury which limited her duties. She did not actually work the job beginning sometime before early fall 1993. She unsuccessfully took a FSM refresher course in 1995. She accepted a permanent limited duty job offer as an FSM Operator-MPO on June 22, 1996. She became an unassigned MPFSM on October 10.

Petersen was scheduled to work on Columbus Day, October 14. It is unknown who added her to the schedule or why. She did not, in fact, work the holiday for an unknown reason.

Petersen took over 17 hours training in a refresher course begun on November 12 and completed on December 4. She did not return to regular, active FSM work until December 4. Petersen filed a separate grievance over denial of 1996 Veterans' Day work which is unresolved in the grievance procedure.

Position of Parties: Union: (1) Whether Petersen is qualified or not, Article 11.6.B and the Local MOU require that volunteers be accepted before mandating other employees to work; (2) Management has drafted employees without necessary skills; (3) In fact, Petersen had skills in the FSM area and should be deemed qualified; (4) Management can not have it both ways by scheduling Petersen on Columbus Day and then rejecting her on Veterans' Day; (5) Petersen should not have been subject to requalification because she had a "live record" as FSM under Article 37.1.L; (6) She also had fewer than 180 days out of the classification which requires only 1 hour "brush-up" training per the MOU at page 357 of the contract; (7) Under ELM 434.533, a March 4, 1974 local settlement agreement and arbitral precedent, Grievant should receive a 50% addition to her Veterans' Day pay. Management: (1) Petersen did not work on Veterans' Day because she was not qualified; (2) Article 3 gives Management the right to maintain efficiency; (3) the contract, MOU and other relevant documents permit Management to select qualified employees for holiday work; (4) Petersen had not actually worked on

the FSM for more than 2 years which eliminated her "live record" under Article 37.1.L and precluded "brush-up" training; (5) Petersen's use of more than 7 hours retraining shows she needed more than "brush-up".

Opinion: The Union has not met its burden of proof. Management may use employees on holidays who have the required skills to perform the work it assigns. Article 11.B.6 speaks of volunteers "with the needed skills." The local MOU, Item 13 B and C, mentions "skills required" and "necessary skills."

Under Article 37.1.L, Petersen's live record ended 2 years after she "[ceased] to perform the duties which require the skill" or, at most, sometime in late 1995. Thus, she was not entitled to be considered based on experience more than 2 years' old. Indeed, she was required to re-train but did not start until the day after Veterans' Day and did not complete the training until December 4.

The circumstances of her being scheduled to work, but not actually working, on Columbus Day are too unclear to conclude that Management somehow is precluded from disqualifying Petersen on Veterans' Day. While it probably would have been better to await resolution of Petersen's own grievance than to decide her qualifications here, the present record indicates that she was not qualified to work the FSM on Veterans' Day. Accordingly, Grievant properly was required to work instead.


Michael D. Gordon, Arbitrator