

Locking Badge Readers

ARBITRATOR'S AWARD

In the Matter of the Arbitration  
Between  
American Postal Workers Union

David A. Dilts  
Arbitrator

and

USPS Case No. C1C-4K-C 36342  
NLRB Case No. 19-CA-9174-P

United States Postal Service,  
Des Moines, Iowa

September 8, 1985

APPEARANCES:

For the Union:

- James S. Romine, Advocate
- Lance Coles
- Gene VerSteegh
- Doug Hudson
- Barbara VerSteegh

For the U. S. Postal Service:

- Joseph Leahy

Hearings in the above cited case were conducted on Friday, September 6, 1985 at the U. S. Post Office, 1165 Second Avenue, Des Moines, Iowa. The parties stipulated the present matter is properly before this Arbitrator in accordance with Article 15 of the 1981 National Agreement.

On April 19, 1985 the Union filed unfair labor practice charges against the Postal Service with National Labor Relations Board. The Union alleged the Employer violated Sections 8(a) (1), (3), and (5) of Act. The Regional Director requested withdrawal of the Section 8(a) (3) charge and deferred jurisdiction on the 8(a) (1) and 8(a) (5) charges to grievance-arbitration procedure contained in Article 15 of the parties' 1981 National Agreement.

The parties stipulated that the unfair labor practice charges are properly before this Arbitrator in accordance with Article 15 of the 1981 National Agreement. The parties further stipulated that this award could properly be cited in future proceedings arising out of the unfair labor practice deferral, but only for purpose of appeal or enforcement of the award as it pertains to the Section 8(a) (1) and/or Section 8(a) (5) charge.

## I. ISSUES

Did the Postal Service violate Articles 5 and 19 of the 1981 National Agreement by installing locks on transactors and badge readers? If so, what shall be the remedy?

Did the Postal Service violate Sections 8(a) (1) and/or 8(a) (5) of the National Labor Relations Act by installing locks on transactors and badge readers (time recording devices) without notice to the Union and an opportunity given for collective on this issue?

## II. PARTIES' POSITIONS

### Union's Position

The Union alleges that the Postal Service has violated Articles 5 and 19 of the 1981 National Agreement and Sections 8(a) (1) and 8(a) (5) of the National Labor Relations Act by installing locking devices on badge readers and transactors used by the American Postal Workers Union clerk craft employees in Des Moines on or about October 23, 1984. Locking devices were not installed on badge readers or transactors for the time clocks used by other employees.

These aggrieved actions were undertaken by management without notice to the Union of the Postal Service's intent to do so and without collective bargaining. It is the Union's contention that Article 19 requires that the Postal Service abide by its own Handbooks and Manuals. It is the Union's position that the PSDS Time and Attendance Handbook (F-22) prohibits the Postal Service from installing locking devices on the card readers and transactors (at Sections 111.1, 111.2, 114.1, and 121).

The Union further contends that Article 5 of the 1981 National Agreement also applies to the present controversy. Article 5 prohibits unilateral actions "affecting . . . terms and conditions of employment;" actions which are also prohibited by Sections 8(a) (1) and 8(a) (5) of the National Labor Relations Act.

The Union has shown that the aggrieved locking devices have resulted in extreme inconvenience for both clerks and supervisors. The Postal supervisors have often been unable to unlock the transactors and badge readers in a timely manner resulting in employees being charged with tardys and other associated deficiencies, in turn, creating situations requiring grievances.

The Union respectfully requests the Arbitrator sustain the present grievance and order the Postal Service to remove the locking devices and cease such unilateral actions.

#### U. S. Postal Service's Position

The U. S. Postal Service admits that locking devices were installed on the badge readers and transactors. The Postal Service further admits that it did so without notice to or collective bargaining with the Union concerning the issue of such locking devices. The Postal Service, however, would ask the Arbitrator to take notice of Article 3 of the 1981 National Agreement. This Article is the management rights clause and authorizes the Postal Service to take such actions as are deemed to "maintain the efficiency of operations . . ." The locking devices were installed to maintain efficiency of operations and

such actions are specifically authorized by Article 3.

The Arbitrator should also take notice of the F-22 Handbook cited by the Union as a bar to the aggrieved actions. The subject Handbook contains no limitation on the Postal Service's right to install locking devices on the time recording machines. It should therefore be clear that the Contract reserves to management the right to maintain the efficiency of operations and Article 19 (through the F-22 Handbook) places no limitation on management's right to install the subject locking devices. The present grievance and unfair labor practice charges are without merit and should be denied.

### III. ARBITRATOR'S OPINION

The Postal Service does not deny the Union's allegations that the subject locking devices were installed. The Postal Service simply claims that Article 3 authorizes it to take those actions it believes are necessary to "maintain the efficiency of operations . . . ," and the Handbook cited by the Union as the basis for violation of Article 19 remains silent on the issue of installing locking devices, hence a reserved management right. The Postal Service's contentions have merit. It is this Arbitrator's opinion that the Postal Service has the right to install locking devices on the badge readers and transactors, if done to maintain efficiency of operations and that such an installation does not violate some specific right granted employees by the Contract.

Much of the evidence presented by the Union concerned the

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See Arbitrator Kates, 42 LA 1236; and Arbitrator Dworkin, 45 LA 397.

effects of the locking devices on employee grievance filings. Union exhibits 2 through 4 were entered into the record, these documents are grievances or settlements concerning grievances arising out of management's failure to assure the badge readers were unlocked timely to allow employees to clock-in, clock-out, or change operations. Substantial testimony was also offered by each of the Union witnesses concerning the unavailability of supervisors to unlock the badge readers and transactors resulting in adverse personnel actions.

The Postal Service did settle those adverse personnel actions brought as a result of the unavailability of supervisory personnel to unlock transactors and badge readers; this the Union admits. The Union, however, asserts that there are cases of tardiness in employee records which could still be cited in attendance discipline. This is plausible, but the relation of these tardy charges to the present controversy is not clear from the record. The Union must prove these assertions before the Arbitrator can give them weight.

It is this Arbitrator's considered opinion that Section 214.2 of the PSDS Time and Attendance Manual (Management exhibit 1) supports the Union's claim that the Postal Service's administration of the locking devices is inconsistent with Contract requirements. This Section states:

The employee must clock-in to the correct operation number at his scheduled reporting time, ready and able to begin work, and must report immediately to his work location. The employee must store any personal belongings and take care of any personal business prior to clocking in. An employee must not clock-in more than .08 (5 minutes) [sic] prior to, or after his scheduled reporting time, nor may he exceed .08 hours (5 minutes) for an 8-hour tour, unless he has specific supervisor approval to do so. The supervisor must enforce

this procedure.

This Section of the F-22 clearly requires employees to clock in at their scheduled time. This same Handbook at Section 114.1 states supervisor responsibilities, among which are:

b. Making certain that employees clock in and out according to their assigned schedules and work assignments.

These Sections of the F-22, taken together, demonstrate that the supervisor has both the right and obligation to assure that employees clock-in and clock-out at their assigned times. Article 16 of the 1981 National Agreement makes "violation of the terms of this Agreement" just cause for disciplinary action. The Postal Service, even though the record shows at least three corrections of adverse personnel actions due to supervisory failure to unlock badge readers, has created a situation that places employees in the position of being unable to fulfill their contractual obligations simply because supervisors failed in their obligation to unlock badge readers. The aggrieved installation of locking devices does not relieve supervisors from their contractual obligation to assure employees can clock-in and clock-out at their assigned times. The Union has shown with a simple preponderance of the evidence that the installation of the locking devices precludes the employees from proper clock rings if supervisors do not fulfill their contractual obligations.

It is the opinion of this Arbitrator that the locking devices substantially change the administration of the procedures for time keeping contained in the F-22. Article 19 of the 1981 National Agreement clothes the F-22 Handbook with contractual authority. The locks, by requiring a change in the nature of

supervisors' responsibilities from "making certain that employees clock in and out" to making sure the badge readers are unlocked so that employees have access to time keeping devices is a departure from the parties' agreement. This is a departure from the accepted condition of employment because access is now denied to time keeping devices and employees cannot clock-in or out if management fails in their responsibilities. Before the installation of the locking devices employees could clock-in or clock-out if management failed in their responsibilities. The Postal Service asserts that it has had considerable difficulty with improper clock rings and that the locking devices were necessary. This Arbitrator is not unsympathetic to the problems faced by the Postal Service but the Contract places the obligation on supervisors to assure compliance with Section 214.2 of the F-22 Handbook and those employees who clock other employees into different operations or clock their fellow workers out should be disciplined if the action is misconduct. The Postal Service has appropriate remedies for the cited problems which do not involve substantively changing employee contractual rights.

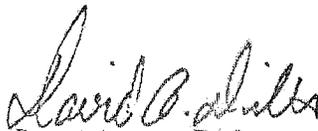
This Arbitrator finds the present grievance to be meritorious. The locking devices change the time keeping obligations of supervisors and subjects employees to the loss of rights guaranteed them by the Contract under both Article 19 and Article 5 of the 1981 National Agreement and the National Labor Relations Act. The local management of U. S. Postal Service is obligated by Section 8(d) of the National Labor Relations Act to give notice and negotiate in good-faith concerning such proposed

changes in the Contract which affect the local terms and conditions of employment. In the instant case, however, the affect of the locking devices cannot be separated from the failures of supervisory personnel to meet their obligations under Section 114.1 of the F-22 Handbook. Supervisors must enforce Section 214.2 of the F-22 (as required by the last sentence of this Section) and the installation of the locking devices shifts this responsibility from the supervisors, at least in significant part, to a lock on a machine, which cannot exercise the discretion and judgment of a supervisor. The Union accepted the Postal Service Handbook as a term and condition of employment and it is the enforcement of time recording procedures by a supervisor and not the locking device that the Union is entitled to receive.

#### IV. AWARD

The grievance is sustained. The Postal Service must remove the locks from the transactors and badge readers immediately upon receipt of this award.

At Manhattan, Kansas  
September 9, 1985:

  
David A. Dilts  
Arbitrator