

ISSUE

Did management violate the National Agreement, and the settlement in grievance 77-95-10960, when it used employees outside the Motor Vehicle Craft to transport Express Mail from the Des Moines Plant to the stations? If so, what is the remedy?

NATURE OF CASE

On May 9, 1994, a National pre-arbitration settlement was reached, regarding MVS and Express Mail transporting. Three points were set out: MVS is the primary craft to transport all bulk mail between postal facilities, and should be assigned the work if such work can be combined with other MVS work to make eight hours of work, and be efficient and effective; management use of other personnel to make the delivery commitments of express mail is allowed; and no specific craft has sole jurisdiction of transporting Express Mail.

On December 12, 1995, the parties here involved resolved grievance 77-95-10960 as follows:

"The parties agree that the transportation of mails between and among postal facilities/stations and branches belong to the jurisdiction of the motor vehicle craft bargaining unit employees -- (to include all sections) and will be assigned accordingly."

On February 23, 1996, Arbitrator Fletcher issued a regional award allowing a grievance essentially the same as this one.

On July 15, 1996, Arbitrator Snow issued a National award denying a grievance related to the

December 12, 1994 settlement, finding no jurisdiction of Express Mail in the MVS.

The union in Des Moines filed at least 68 grievances relating to others doing what it claimed was MVS work, delivering Express Mail between the GMF and stations. Step two settlements followed the lead of the December 12, 1995 case.

This grievance was filed on November 16, 2001, complaining of non-compliance with settlement 77-95-10960.

CONTENTIONS

According to the union, management was calling the stations to send an employee to pick up Express Mail which was too late to go out with a normal delivery from the GMF. Despite the clear settlement, rarely did management even try to utilize MVS to deliver late-arriving Express Mail. While management claimed timely delivery required it to use other employees, in fact, the Express Mail was frequently delivered well past its schedule time. The pre-arbitration settlement of May 9, 1994, does not give management the right to assign work to any member it chooses. The settlement of grievance 77-95-10960 is still binding, and the grievance should be allowed, with the remedy requested.

According to management, the transportation of Express Mail is nonexclusive to any individual craft, and MVS employees do not have an absolute right to perform those duties. Article 3, Management Rights, gives the employer the exclusive right to direct employees in the performance of official duties, to maintain the efficiency of the operations entrusted to its and to determine the methods, means and personnel by which such operations are to be conducted. The union is attempting to use an old non--precedent-setting step 2 settlement that does not deal with the same set of circumstances. That settlement dealt with a supervisor transporting mail from the Des Moines plant to the Munroe, Iowa Post Office. This grievance relates, not to the transportation of first class mail by a supervisor, but the transportation of time sensitive Express Mail by other craft employees. In order to resolve numerous grievances pertaining to the use of personnel, other than MVS, to transport bulk quantities of Express Mail, the Postal Service and the APWU entered into a National level agreement on May 9, 1994. This award is precedent-setting and binding on the parties at the regional and local levels. Following the settlement, a National grievance was filed concerning management assigning carriers to transport bulk quantities of Express Mail between terminal points and stations and branches. Arbitrator Snow denied the grievance, finding that no craft specifically had been assigned Express Mail duties. His National award was dated July 15, 1996, subsequent to the local grievance 77-95-10960. In this case, Express Mail is dispatched to the stations, normally by MVS drivers, for delivery by the letter carriers. Only on those

occasions when delay occurs and the Express Mail does not reach the plant in time to be sorted, and make the 8 a.m. dispatch by MVS to the stations, does management look for alternate transportation of the Express Mail. The amount of Express Mail being transported to a specific station may vary from one piece up to a half sack of mail. This amount of Express Mail being transported is clearly de minimus and does not constitute bulk quantities of mail. This grievance should have been resolved by the parties after reviewing the settlement of May 9, 1994, and it is without merit. It should be denied.

DISCUSSION

The "Nature of Case" set out the facts in the form of a chronology, because the sequence controls the result.

In 1994, a National pre-arb settlement was reached, but it was not interpreted the same by all parties.

In 1995, at Des Moines, the parties resolved grievance 77-95-10960, including these words: "... the transportation of mails... belong to the jurisdiction of the motor vehicle craft bargaining unit employees...". At Des Moines, at least, MVS got all the transportation of mail assigned to them, because MVS had jurisdiction of that function.

In early 1996, arbitrator Fletcher in a regional arbitration award, found that the MVS, under the

1994 settlement, had the right to all transportation of express mail, unless the conditions of paragraph 2 were not matched.

Later in 1996, arbitrator Snow, in a National award, wrote:

Clearly, the APWU believes that the settlement agreement should not require its members to 'give up work the Motor Vehicle Craft presently performs.' In fact, the agreement has no such impact. It is completely silent with regard to assignments that do not fall within its condition. In that respect, the claim of the American Postal Workers Union regarding the work its membership presently is performing is completely unaffected by the settlement agreement of May 9, 1994. The APWU has gained a right to specific work under specific circumstances by a negotiated settlement agreement. Work not covered by that agreement is no more and no less within the jurisdiction of the APWU than it was prior to the settlement agreement." He found in his award that management did not violate the May 9, 1994 settlement agreement... 'when management assigned other than Motor Vehicle Service Division employees to transport bulk quantities of express mail'. He denied the grievance.

From the date of issuance of arbitrator Snow's award, since no change in the agreement has been made, the 1994 settlement controls, as interpreted by arbitrator Snow. Clearly that included the jurisdictional right to transfer express mail not residing in the MVS, from arbitrator Snow's award, and the right of management to assign non-MVS employees to transport express mail to

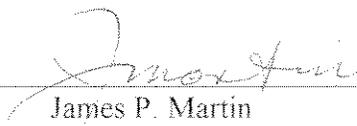
meet delivery commitments, from the 1994 settlement.

The settlement in grievance 77- 95-10960 declares that the transportation of mail:" belong to the jurisdiction of the motor vehicle craft bargaining unit employees...", and assignments are to be made accordingly. However, the 1994 settlement, as interpreted by arbitrator Snow, declares that the MVS does not have jurisdiction of Express Mail transportation. A local second step settlement cannot trump a National settlement. The basis for the Des Moines settlement is thus invalid, and the settlement is of no force nor effect. Since the settlement "accordingly" specifies assignment of work, that is no longer a binding agreement. The 1994 settlement, as interpreted by arbitrator Snow, must be read by the parties and used as the basis for the assignment of employees to transport Express Mail. That settlement, not the local settlement, establishes the rights of the parties as it relates to Express Mail.

AWARD

Since a local Step 2 settlement was overruled by a National award, the settlement is thereafter not binding on Management; the assignment of non-MVS employees to transfer Express Mail is not a violation of the settlement, nor of the Agreement.

November 14, 2003
Chesterton, IN



James P. Martin
Labor Arbitrator

SET 2