



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Appeal to Arbitration, National Dispute

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
202-331-0992 (Fax)

September 30, 2008

Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

National Executive Board

William Burrus
President

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Sharyn M. Stone
Coordinator, Central Region

Mike Gallagher
Coordinator, Eastern Region

Elizabeth "Liz" Powell
Coordinator, Northeast Region

William E. "Bill" Sullivan
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

Re: USPS No. Q06C4QC08228294 , APWU No. HQTG20089

Dear Mr. Tulino:

Please be advised that pursuant to Article 15, Sections 2 and 4, of the Collective Bargaining Agreement, the APWU is appealing the above referenced dispute to arbitration.

Sincerely,


Greg Bell, Director
Industrial Relations

USPS #: Q06C4QC08228294
APWU #: HQTG20089

Case Officer: Greg Bell
Step 4 Appeal Date:
Contract Article(s): ;

cc: Resident Officers
File Industrial Relations

GB/bw



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Article 15 -15 Day Statement of Issues and Facts

Greg Bell, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
(202) 842-4273 (Office)
(202) 371-0992 (Fax)

September 30, 2008

VIA FACSIMILE AND FIRST CLASS MAIL

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Western Region Coordinator

Re: USPS No. Q06C4QC08228294; APWU No. HQTG20089, Local Level Notification of Subcontracting of Bargaining Unit Work

Dear Mr. Tulino:

The parties discussed the above-referenced dispute at Step 4 of the grievance procedure. The parties mutually agreed to submit their written statements no later than September 30, 2008. The following represents the APWU's understanding of the issues to be decided and the facts giving rise to the interpretive dispute.

This dispute involves the Postal Service's obligation pursuant to Article 32, Section 1.C of the National Agreement, to furnish the Union at the local level notification of subcontracting of bargaining unit work within their respective installations.

It is the Postal Service's position that local subcontracting of bargaining unit work does not require notification pursuant to Article 32.1.C of the National Agreement.

It is the APWU's position that Article 32, Section 1.C., requires notification to the local union of subcontracting of bargaining unit work at local installations. However, when subcontracting might have significant impact on bargaining unit work, pursuant to the notification requirements of Article 32, Section 1.B, the Postal Service is required to give notification to the Union at the national level.

Article 32, Section 1.C of the National Agreement provides the following:

When a decision has been made at the Field Level to subcontract bargaining unit work, the Union at the Local level will be given notification.

Article 32 Notification Requirements

Article 32 governs the notification requirements concerning subcontracting of bargaining unit work. It is the APWU's position that Article 32 of the National Agreement requires the Postal Service to provide notification to the Union in regard to subcontracting of bargaining unit work. In other words, the Postal Service has an obligation to provide the Union notification in regard to subcontracting of bargaining unit work – either to the Union at the national level or to the Union at the local level.

Meaning of the term “Field Level”

The term “Field Level” in Article 32, Section 1.C encompasses, but is not limited to, decisions made to subcontract bargaining unit work at local installation(s) that does not have significant impact on bargaining unit work, and therefore does not require notification to the Union at the national level. Instead, the Postal Service has an obligation to give notification to union at the local level.

Furthermore, the APWU contends that there is no disagreement between the parties that the definition and application of the term “field” - is a general designation for postal locations (including areas and districts), other than Headquarters and its related units. The Postal Service has not provided any evidence to the contrary. Moreover, the Postal Service has not put forth any contention contrary to the fact that the term “field” is a general designation for postal locations other than Headquarters, and its related units.

Both parties are experienced negotiators and knew what the term “Field Level” meant when it was negotiated into Article 32, Section 1.C of the National Agreement. It is the APWU's position that Article 32, Section 1.C., requires notification to the local union of subcontracting of bargaining unit work at local installations when decisions are made at the field level (other than at the Headquarters level).

Background

The parties have a history of on-going grievances over subcontracting of bargaining unit work at local installations around the country. In contract negotiations, the Union traditionally seeks to improve existing subcontracting provisions and to place additional restrictions on subcontracting.

Although the Union was not successful in negotiating additional restrictions on subcontracting in the most recent contract negotiations, the APWU was successful in negotiating provisions requiring notification to the union at the local level of subcontracting of bargaining

Mr. Doug Tulino
Re: USPS No.: Q06C4QC08228294
September 30, 2008
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unit work at local installations. Whereas, Article 32 already provided notification requirements to the Union at the national level, the APWU was seeking and achieved notification to the Union at the local level of subcontracting of bargaining unit work at their respective installations.

Notification to the Union at the local level of subcontracting of bargaining unit work affords the Union the opportunity to address its concerns early on and provides the parties the opportunity to resolve any differences that they may have at the lowest possible step of the grievance procedure. This is consistent with the principles of dispute resolution in Article 15, and the intent of Article 32, Section 1.C of the National Agreement.

Contrary to the assertions that the Postal Service is now making (after negotiating) that if "Local" had been intended, the word "Local" would have been used in Article 32, Section 1.C., the Postal Service knew that decisions made regarding subcontracting of bargaining unit work at local installations in the Postal Service are either characterized and/or identified as "field level" decisions or "national level decisions" (not local, district, area, regional level etc.). In addition, the Postal Service knew the application of and use of the term "Field Level" covered decisions made to subcontract bargaining unit work at local installations, other than decisions made at the national level. The purpose of Article 32, Section 1.C is that the Union at the local level that represents the impacted installations where the subcontracting of bargaining unit work is taking place, be given notification.

Moreover, to avoid game playing and to ensure that the Union at the local level is given notification of subcontracting of bargaining unit work at its respective local installation(s), unless it involves a national level decision, the APWU was successful in negotiating, and the parties agreed to incorporate the term "Field Level" into Article 32, Section 1.C of the National Agreement. The parties understood that "Field Level" covers any subcontracting of bargaining unit work at local installations, other than national level subcontracting.

Sincerely,


Greg Bell, Director
Industrial Relations

cc: Industrial Relations File

APWU #: HQTG20089
USPS #: Q06C4QC08228294

Dispute Date: 06/03/08
Contract Articles: 32, Sec. 1.C.; Notification of
Subcontracting of Bargaining Unit Work

The bargaining history between the parties supports the Postal Service's position.

At negotiations for the 2006-2010 Collective Bargaining Agreement, the APWU submitted its proposal about subcontracting, APWU Proposal 32A-1, which states in relevant part on page 1:

In many cases, local unions are not notified of proposed subcontracting or management's intent to subcontract. Failure to provide advance notice deprives the Parties of the opportunity for resolution prior to implementation.

During meetings held between the parties, the APWU further explained that much of the union's complaint centered upon subcontracting initiatives which were developed outside the local facility and subsequently implemented at individual facilities. In those instances, local union officers would often be surprised when such initiatives and the subcontracting involved arrived at individual facilities. During these same discussions, the parties recognized that while notice was sent to the APWU at the national level regarding many national subcontracting initiatives, especially where there is significant impact to the bargaining unit, the precise timing and content of area subcontracting initiatives were in some instances not always communicated to local unions.

The APWU suggested that advance notification should be given for all Local outsourcing initiatives. The Postal Service did not accept this suggestion from the Union, reasoning that it would require notice for even the most minor instances of subcontracting. As such minor subcontracting initiatives do not involve significant impact to the bargaining unit, and would not likely result in the decision to not outsource the work, notice to the Union would be unnecessarily cumbersome. Specific examples of such minor subcontracting cited by the Postal Service included tire and oil changes, and window washing for Postal lobbies, etc.

As a courtesy, and after considerable discussion between the parties, it was agreed that local union offices should be given notification where area subcontracting takes place to avoid undue conflict between the parties. It was intended that providing notice to the local union would avert any confusion at the time any area subcontracting is actually implemented at an individual facility. In response to you're the Union's expansive view of the requirements imposed by the agreed-upon language, if "Local" had been intended, the word "Local" would have been used (twice) in the language of Article 32, Section 1, Part C.

For these reasons, despite claims to the contrary by the APWU, the position of the Postal Service has been that local outsourcing projects do not require notification to local unions pursuant to the above-cited subsection of the National Agreement.

Time limits at this level were extended by mutual consent as it relates to the Step 4, Article 15 issues involved in this dispute.

If you have any further questions or concerns, please do not hesitate to contact me at (202) 268-5421.

Sincerely,



Patrick M. Devine
Labor Relations Specialist
Contract Administration (APWU)