# Maintenance Division

## American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005


# Important Answers

August 7, 2014

Question (1): Whether management must use overtime to cover a temporary vacancy in the maintenance craft instead of detailing an employee to a higher level assignment under the provisions of Article 25?

**Answer: YES**

Question (2): Whether there is a violation of the National Agreement when an employee from a different occupational group is assigned higher level work on straight time, rather than assigning overtime to an employee within the same occupational group?

**Answer: YES**

The above is from the National Arbitration Award in case Q00T-4Q-C 06082523, Arbitrator Shyam Das issued his decision on August 6, 2014 specifically refuting all of management's contentions and concluding:

> *Accordingly, I conclude that the issues/questions raised by the Postal Service in initiating this dispute must be answered in the affirmative. Consistent with Article 7.2 of the National Agreement, as interpreted and applied in prior National Arbitration decisions, the Postal Service may not detail a maintenance craft employee to perform higher level work in a different occupation group to avoid paying overtime to an employee within that same occupational group. Cases and grievances held pending the decision in this National Arbitration case are to be addressed by the parties accordingly.*

National Maintenance Director Steven Raymer remarked, "There are many regional cases held against this lead dispute. The significance of this award should not be understated. It provides enforcement for the distinctions in our occupational groups which would be meaningless without the job security of knowing that the occupational group will perform its work, even at the overtime rate. The Postal Service attempted to chip away at our long standing enforcement of work assignments for our occupational groups based on the rate of pay the employee was earning. This award puts an end to management's ill-conceived attack on our wages and job security."

The USPS had originally filed this dispute in 2006. Locals are advised to research their files for any Article 7 and/or Article 25 cases they may have on hold locally. The Maintenance Officers note that this is a good example of why they insist Locals always appeal their unresolved Maintenance Craft grievances to step 3. Maintenance cases need to be logged into the APWU grievance system and should be held at the step 3 level as the passage of time and the turnover of local representatives could cause meritorious grievances to 'fall through the cracks'.

Please contact your Maintenance National Business Agent for further information.

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|---|---|---|
| *Steven G. Raymer* | *Idowu Balogun* | *Gregory See* |
| National Director | Asst. Director A | Asst. Director B |

NATIONAL ARBITRATION PANEL

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| In the Matter of the Arbitration | ) | |
| | ) | |
| between | ) | |
| | ) | |
| UNITED STATES POSTAL SERVICE | ) | Case No. Q00T-4Q-C 06082523 |
| | ) | |
| and | ) | |
| | ) | |
| AMERICAN POSTAL WORKERS UNION, AFL-CIO | ) | |
| | ) | |

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BEFORE: Shyam Das

APPEARANCES:

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| For the Postal Service: | Julienne W. Bramesco, Esq. |
| For the APWU: | Lee W. Jackson, Esq. |
| Place of Hearing: | Washington, D.C. |
| Dates of Hearing: | November 21, 2013 |
| Date of Award: | August 6, 2014 |
| Relevant Contract Provisions: | Articles 3, 7.2, 25 and 38.2.H |
| Contract Year: | 2006-2010 |
| Type of Grievance: | Contract Interpretation |

Award Summary:

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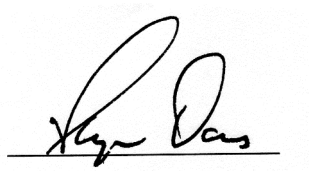
The issues raised by the Postal Service in this case are resolved on the basis set forth in the final paragraph of the above Findings.



Shyam Das, Arbitrator

On March 27, 2006, the Postal Service initiated this dispute at Step 4 of the grievance procedure. The basis of the interpretive issue was set forth in the notice letter in two different ways:

(1) Whether management must use overtime to cover a temporary vacancy in the maintenance craft instead of detailing an employee to a higher level assignment under the provisions of Article 25.

(2) Whether there is a violation of the National Agreement when an employee from a different occupational group is assigned higher level work on straight time, rather than assigning overtime to an employee within the same occupational group.

In accordance with Article 15.4, the Postal Service and the Union provided position letters ("15-day letter") on July 6, 2012, setting forth their respective statements of the issues and facts. The parties were unable to reach an agreement on this matter, and the Union appealed the dispute to arbitration on July 9, 2012.

At the arbitration hearing on November 21, 2013, the Union took the initial position that the issues raised by the Postal Service present no interpretive issue for decision in National Arbitration under the terms of Article 15.5.D.

The following provisions of the National Agreement are relevant to the arbitration of this dispute:

ARTICLE 7

EMPLOYEE CLASSIFICATIONS

* * *

Section 2. Employment and Work Assignments

A. Normally, work in different crafts, occupational groups or levels will not be combined into one job. However, to provide maximum full-time employment and provide necessary flexibility, management may establish full-time schedule assignments by

including work within different crafts or occupational groups after the following sequential actions have been taken:

1. All available work within each separate craft by tour has been combined.

2. Work of different crafts in the same wage level by tour has been combined.

The appropriate representatives of the affected Unions will be informed in advance of the reasons for establishing the combination full-time assignments within different crafts in accordance with this Article.

B. In the event of insufficient work on any particular day or days in a full-time or part-time employee's own scheduled assignment, management may assign the employee to any available work in the same wage level for which the employee is qualified, consistent with the employee's knowledge and experience, in order to maintain the number of work hours of the employee's basic work schedule.

C. During exceptionally heavy workload periods for one occupational group, employees in an occupational group experiencing a light workload period may be assigned to work in the same wage level, commensurate with their capabilities, to the heavy workload area for such time as management determines necessary.

* * *

ARTICLE 15

GRIEVANCE-ARBITRATION PROCEDURE

* * *

Section 5. Arbitration

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D. National Level Arbitration

1. Only cases involving interpretive issues under this Agreement or supplements thereto of general application will be arbitrated at the National level.

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ARTICLE 25

HIGHER LEVEL ASSIGNMENTS

* * *

Section 2. Higher Level Pay

An employee who is detailed to higher level work shall be paid at the higher level for time actually spent on such job. An employee's higher level rate shall be determined as if promoted to the position. An employee temporarily assigned or detailed to a lower level position shall be paid at the employee's own rate.

Section 3. Written Orders

Any employee detailed to higher level work shall be given a written management order, stating beginning and approximate termination, and directing the employee to perform the duties of the higher level position. Such written order shall be accepted as authorization for the higher level pay. The failure of management to give a written order is not grounds for denial of higher level pay if the employee was otherwise directed to perform the duties.

Section 4. Higher Level Details

Detailing of employees to higher level bargaining unit work in each craft shall be from those eligible, qualified and available employees in each craft in the immediate work area in which the temporarily vacant higher level position exists. However, for details of an anticipated duration of one week (five working days within seven calendar days) or longer to those higher level craft positions enumerated in the craft Articles of this Agreement as being permanently filled on the basis of promotion of the senior qualified employee, the senior, qualified, eligible, available employee in the immediate work area in which the temporarily vacant higher level position exists shall be selected.

* * *

ARTICLE 38. MAINTENANCE CRAFT

* * *

> Section 2. Definitions
>
> H. Occupational Group. In the Maintenance Craft, occupational group shall be determined by position designation and level.

The Parties negotiated Article 7 during the first round of negotiations in 1971. The language in Article 7 has not changed substantially since it was initially adopted. The Parties negotiated Article 25 in 1971. Article 25 has remained materially unchanged since it was initially adopted.

In 1982, Arbitrator Richard Bloch issued a National Arbitration award in Case No. H8S-5F-C 8027 which addressed cross-craft assignments in the context of Article 7.2. That case involved management's assignment of a part-time flexible city carrier to perform special delivery functions in a different craft. The Union's position was that: "Management may cross Craft lines only in accordance with certain provisions of the Labor Agreement." Bloch's opinion included the following relevant analysis:

> Special Delivery Carriers under this Labor Agreement are contractually distinct from City Letter Carriers.[2] Section 2 deals with, among other things, limited circumstances wherein the inherent proscription against crossing craft lines is inapplicable. [Footnote omitted.]...
>
> [Paragraph B] specifies that the eventuality of "insufficient work" on a given occasion will justify the crossing of craft lines for the purpose of providing an employee an eight-hour work day. Section C...refers primarily to a situation where "exceptionally heavy work" occurs in another occupational work group, as opposed to the "insufficient work" discussed in Paragraph B. Section C provides that, when such heavy workload occurs, and when there is at the same time a light load in another group, craft lines may be crossed.
>
> Taken together, these provisions support the inference that Management's right to cross craft lines is substantially limited. The exceptions to the requirement of observing the boundaries arise in situations that are not only unusual but also reasonably unforeseeable. There is no reason to find that the parties

> intended to give Management discretion to schedule across craft lines merely to maximize efficient personnel usage; this is not what the parties have bargained. That an assignment across craft lines might enable Management to avoid overtime in another group for example, is not, by itself, a contractually sound reason. It must be shown either that there was "insufficient work" for the classification or, alternatively, that work was "exceptionally heavy" in one occupational group and light, as well, in another.
>
> * * *
>
> Thus interpreted, the question becomes purely one of fact: Did the circumstances here at issue justify Management's invoking Section 2(B) or 2(C) in order to cross craft lines on the day in question.

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[2]The distinction among crafts is recognized, for example, in Section 2 -- Employment and Work Assignments. Paragraph A specifies that "Normally, work in different crafts, occupational groups or levels will not be combined into one job."

Later in 1982, Arbitrator Richard Mittenthal also addressed the propriety of a cross-craft assignment in Case No. H8C-2F-C 7406. In that case, the Postal Service assigned a level 4 mail handler to level 5 distribution clerk work in a different craft. The Union alleged a violation of Article 7.2.B (VII-2-B). Mittenthal cited Bloch's decision and stated:

> The principle seems clear. Where Management makes a cross-craft assignment, it must justify that assignment under the terms of VII-2-B or VII-2-C. If no such justification is provided, the cross-craft assignment is improper under the "inherent proscription..." in VII-2. The Postal Service does not claim Arbitrator Bloch's interpretation is incorrect. It has not asked me to modify or overrule his award.

There was no dispute that there was "insufficient" work for the mail handler on the day in question. The issue on which the parties disagreed in that case was whether the employee was assigned work "in the same wage level" as provided for in Article 7.2.B. The Postal Service alleged that the employee was upgraded to level 5 before being assigned to the clerk job. Mittenthal found no evidentiary support for that claim and pointed out:

> If the Postal Service could "upgrade" an employee within his craft in the manner it says it did in the present case, then the VII-2-B requirement that a cross-craft assignment be "in the same wage level" would be meaningless.
>
> It follows that the protested Mail Handler did not make a "lateral" move on July 27, 1980, that he hence was not assigned to a job "in the same wage level", and that Management has not been able to justify its cross-craft assignment under VII-2-B.[1] That cross-craft assignment, Mail Handler to Distribution Clerk, was improper under the principle stated in Arbitrator Bloch's award.
>
> _____
>
> [1]Management's rights under Article III are obviously limited by the restrictions imposed by VII-2-B....

Mittenthal also rejected other Postal Service arguments, including a reliance on negotiating history related to Article 7.2.B and past practice. At the conclusion of his decision he included the following reference to Article 25 (XXV):

> For these reasons, my ruling is that Management's action in assigning a Mail Handler to Distribution Clerk on July 27, 1980, in the Pittsburgh BMC was a violation of Article VII, Section 2. In view of this ruling, the parties' arguments regarding Article XXV need not be answered. The Postal Service, in any event, has not invoked XXV here to justify the Mail Handler's cross-craft assignment to Clerk.

The maintenance craft is the only craft with occupational groups, which are defined in Article 38.2.H of the National Agreement. Following the Bloch and Mittenthal decisions a number of regional arbitration cases involving cross-occupational group assignment disputes in the maintenance craft were decided, including cases where the Postal Service claimed the assignment was a higher level detail authorized under Article 25.4. The arbitrators in those cases, at least for the most part, concluded that the general proscription on crossing crafts found by Bloch also applied to occupational groups and that such assignments had to comply with the provisions of Article 7.2.B and C as applied in the Bloch and Mittenthal cases. That issue has not, however, been addressed at the National Arbitration level before this case.

In 2004, the APWU and the Postal Service agreed on a Joint Contract Interpretation Manual (JCIM). As revised in November 2005 -- following my National Arbitration decision in Case No. C90C-1C-C 93018526 addressing assignment of clerk craft employees to other clerk craft work across wage levels -- the JCIM provision relating to Article 7.2.B and 7.2.C states as follows:

> WORK ASSIGNMENTS
>
> Article 7.2.B and 7.2.C provide that management may assign employees across craft lines when certain conditions are met.
>
> Article 7.2.B provides for assigning employees to work in another craft due to insufficient work in their own craft. Article 7.2.B is not relevant to assigning clerk craft employees to other work within the clerk craft across wage levels [Holding in Das award].
>
> * * *
>
> Article 7.2.C permits the assignment of employees to perform work in the same wage level in another craft or occupational group where there is an exceptionally heavy workload in another craft or occupational group and a light workload in the employees' craft or occupational group.
>
> * * *
>
> Generally, when the union establishes that an employee was assigned across craft lines or occupational groups in violation of Article 7.2.B or 7.2.C, a "make whole" remedy requires the payment (at the appropriate rate) to the available and qualified employee(s) who would have been scheduled to work but for the contractual violation.

Labor Relations Specialist Terry LeFevre testified that the Postal Service uses detail assignments covered by Article 25 whenever it needs to assign an employee to a different job at a different level generally for an extended period of time ("something more than a couple of hours"). Details are used for a variety of reasons, such as filling absences (such as those created by military leave) and allowing people to get experience in higher skilled jobs that can

be used for promotional opportunities. He pointed to Section 7.16 of Handbook EL-312, which includes the following provisions:

> 7.16 Positions Filled Temporarily
>
> When a career employee is temporarily absent, his or her position may be filled by temporary assignment, reassignment, or promotion....
>
> Examples of temporary absences of an incumbent that justify filling a position temporarily include the following:
>
> a. Serving active military duty.
>
> b. Serving as a national officer of a postal employee organization.
>
> c. Being temporarily assigned and/or promoted to another position.
>
> d. Being appointed as an officer-in-charge.
>
> 7.16.1 Temporary Assignments
>
> *Temporary assignment* is the placement of an employee into an established position for a limited period of time to perform duties and responsibilities other than those contained in the employee's normal position description. A formal reassignment and/or promotion personnel action is not required.
>
> 7.16.11 Temporary Bargaining Assignments
>
> Unless stated in the relevant collective bargaining agreement, employees in temporary bargaining assignments must meet the qualification standards for the positions to which they are assigned. When the relevant collective bargaining agreement contains specific provisions regarding higher level bargaining assignments, these provisions must be followed.

Steven Raymer, APWU National Director of the Maintenance Craft, pointed to four Step 4 National level settlements that were entered into after the Bloch and Mittenthal decisions. The first, a grievance settlement dated January 19, 1988, states in relevant part:

> The issue in this grievance is whether a notice of intent for a relief position to cover several occupational groups and levels violated the National Agreement.
>
> After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We agreed that as stated in a previous Step 4 decision, the establishment of relief assignments, in the maintenance craft, shall be kept to a minimum and within the same occupational groups and levels.
>
> Accordingly, we agreed to remand this case to the parties at Step 3 for application of the above language to the fact circumstances.

The second is an October 18, 1993 Step 4 agreement consolidating and eliminating various maintenance jobs, which Raymer stated eliminated a source of cross-occupational group violations. That agreement, he added, also eliminated the "machine specific agreement" under which only ETs could work on a DBCS machine regardless of the work to be done. Two other August 1988 Step 4 settlements are so called "working down sign offs" which, Raymer stated, also eliminated certain sources of occupational group violations. The first of these two agreements provides:

> The issue in this grievance is whether the Postal Service violated the National Agreement when the ET-09 performed assigned maintenance duties on the DBCS.
>
> After reviewing this matter, the parties agree that no national interpretive issue is fairly presented in this case. The fact circumstances in this case will determine whether the duties performed were within the Position Description of the ET-09.
>
> The parties further agree that the Electronic Technician, PS-09, occupational group encompasses the functional purpose and duties and responsibilities of its position description as well as the duties and responsibilities of the Mail Processing Equipment Maintenance Mechanic, PS-07, Maintenance Mechanic, PS-05,

> and Maintenance Mechanic, PS-04, position descriptions, as they pertain to mail processing equipment and customer service equipment.
>
> Accordingly, we agree to remand this case to Step 3 for determination of fact circumstances and appropriate remedy or to arbitration in accordance with the Step 4 Procedures MOU.

The second "work down sign off" similarly included agreements that the level 7 mail processing equipment and level 7 building equipment mechanic occupational groups encompassed the work also performed by level 5 and level 4 MPE and BEM positions, respectively.

Raymer also testified that in his experience as a local union official in Wisconsin and even more recently as National Craft Director, the disputes in cross-occupational group cases after the Bloch and Mittenthal Awards were not about whether cross-occupational group assignments were permissible -- they were not -- but over whether the work in issue actually was the work of a different occupational group.

Vance Zimmerman, an APWU National Business Agent for the Maintenance Craft in the Central Region, similarly testified that, prior to this dispute being filed by the Postal Service in 2006, in his dealings with management counterparts, with one exception, those Postal Service officials resolved grievances where it was determined that a maintenance employee had been assigned work in a different occupational group. After the parties agreed to the JCIM in 2004, Zimmerman testified, he was involved with management counterparts in training stewards and supervisors on the JCIM in the Central Region. He stated that as a maintenance craft representative he would use cross-occupational group examples in covering the JCIM provisions relating to Article 7.2.C.

## APWU POSITION

The Union initially contends that the Postal Service presents no National level dispute in this case. National Arbitration awards by Arbitrators Bloch and Mittenthal establish that the Postal Service must comply with Article 7.2 in making temporary cross-craft

assignments. The same proscription applies to assignments across occupational groups. The parties have incorporated the findings of those National awards in the JCIM and at least four Step 4 National level settlements, some of which involved cross-occupational group assignments. Moreover, those National awards have been adopted and followed not only by numerous regional arbitrators, but also -- as testified to by Union witnesses -- by the parties in resolving and processing of grievances prior to the Postal Service filing this Step 4 dispute in 2006. Whether an employee is paid properly under Article 25 or not, the Union stresses, the Postal Service still is obligated to comply with Article 7.2.

The Union stresses the importance of occupational groups within the maintenance craft. Only the maintenance craft has separate occupational groups and the occupational group determines the rights of the maintenance craft employees. The Union argues that the Postal Service's position of making higher level assignments across occupational groups in the maintenance craft will have an adverse impact on bargaining unit members. Maintenance Craft Director Raymer testified to the importance of preserving the rightfully negotiated status of occupational groups in the maintenance craft. A maintenance craft employee's rights in an excessing situation, to bid on preferred duty assignments, to be offered training opportunities, and to be assigned overtime all are based on occupational group. Moreover, the Union argues, if the Postal Service prevails in this case, it could hire all maintenance employees as level 3 custodians and simply detail such a level 3 custodian to a level 10 or 11 ET position for as long as it wants, ultimately having a negative impact on retirement benefits, etc.

The Union contends that the language in Article 7.2.A is clear and unequivocal, in that it plainly prohibits both cross-occupational group assignments and cross-craft assignments. The Union points to Article 7.2.A, which reads, in relevant part:

> A. Normally, work in different crafts, occupational groups or levels will not be combined into one job…

The Union argues that the language in Article 7.2 shows that the parties intended to include a general prohibition against cross-occupational group assignments. The Bloch and Mittenthal awards strictly limit cross-craft assignments to those that meet the narrow exceptions set out in Article 7.2.B and C. The same reasoning applies to cross-occupational group assignments, as numerous regional arbitrators have held, and as the parties have agreed in the JCIM and in their processing of grievances prior to this Step 4 dispute being initiated by the Postal Service.

The Union insists the Postal Service should not be able to circumvent the limitations in Article 7.2 by relying on its ability to make higher level appointments under Article 25.4, as regional arbitrators have ruled. The Union argues that the Postal Service's position in this case would allow it to circumvent the clear proscriptions set out in Article 7.2, by making a cross-occupational group "temporary detail" or "temporary assignment" to a higher level position. This would render the phrase "occupational group" in Article 7.2 meaningless whenever the Postal Service chose to make a higher level assignment under Article 25. The Union also points out that other provisions of the National Agreement provide for training opportunities on work in higher occupation groups.

The Union contends its position should be sustained, and that the Arbitrator should order that all cases at all levels being held in abeyance pending resolution of this case be resolved on that basis.

## EMPLOYER POSITION

The Postal Service initiated this grievance to resolve an interpretive dispute regarding detailing of maintenance craft employees to higher wage level positions in different occupational groups. This dispute involves details that are made across occupational groups but within the Maintenance Craft, and not assignments within the same wage level or across crafts. The Postal Service argues that it should not be required to use overtime to cover a temporary vacancy in the maintenance craft instead of detailing an employee to a higher level assignment under the provisions of Article 25.

The Postal Service insists that Article 25 is the only relevant provision of the National Agreement in the situation where a maintenance craft employee is detailed to a higher wage level position in a different occupational group. The Postal Service cites the plain language of Article 25, explaining that it clearly and unambiguously permits, and creates a mechanism for, detailing employees within a craft to a higher (or lower) wage level. It stresses that there are no limits on what kinds of temporary vacancies can be filled using a detail.

The Postal Service contends that Article 7.2 is irrelevant because it only applies to cross-craft assignments within the same wage level. Where the Postal Service makes higher wage level assignments under Article 25, Article 7.2 does not apply. The Postal Service argues that Article 25 contains few restrictions and the phrase "occupational group" never appears. Nor does Article 25 reference Article 7.

The Postal Service points out that contracts are to be interpreted as a whole and forfeitures avoided. Although Articles 7.2 and 25 both relate to temporary job assignments, they operate in different contexts: Article 25 applies to different wage levels within the craft, while Article 7.2 applies to the same wage levels across crafts. These provisions operate in different contexts and they are mutually exclusive -- if Article 7.2 applies, Article 25 could not apply.

The Postal Service argues that the exact terms in Article 25 should have greater weight than the general terms in Article 7. Labor Relations Specialist LeFevre explained that the term "detail" in Article 25, which is used to describe temporary reassignments to higher (or lower) level jobs, has a specific meaning and a procedure that supports its use at the Postal Service. Article 7.2, on the other hand, uses the more general term "assignment". The Postal Service points out that a detail is a temporary assignment, but not every temporary assignment is a detail, and it asserts that the specific terminology set forth in Article 25 must control.

The Postal Service also maintains that the parties' choice of language in the National Agreement is significant. Article 25.4 states that details are made within the same craft, not occupational group. The use of the term "craft" rather than "occupational group" is meaningful and significant. It is meaningful because the parties drafted the Agreement using

the terms that most closely matched their intent. It is significant because it can be inferred from the parties' use of the word "craft" that they did not intend to use "occupational group". If the parties had intended to prohibit temporary details across occupational groups, they would have used the term "occupational group" as they have done in various other provisions of the National Agreement.

The Postal Service stresses that the intent of the parties when drafting Article 25 was to allow employees to be paid at higher rates when they performed higher level work. When Article 7.2 was drafted, the drafters wanted to be able to move employees around to ensure that they had enough work to do. The National Arbitration decisions by Bloch and Mittenthal further revealed that Article 7.2 serves to limit crossing craft lines to situations when the exceptions in Article 7.2.B and C are clearly met.

The Postal Service also points out that its Agreements with the National Association of Letter Carriers (NALC) and the National Postal Mail Handlers Union (NPMHU) contain provisions similar to Article 7.2. The Postal Service asserts that these other unions interpret Article 7.2 in a way that is consistent with the Bloch and Mittenthal awards and the Postal Service's interpretation -- that Article 7.2 restricts only cross-craft assignments. If Article 7.2 only applies to cross-craft assignments, it does not apply to intra-craft or cross-occupational group details.

The Postal Service asserts that nothing in the National Agreement or arbitral precedent requires the use of overtime instead of detailing qualified employees at straight-time. Overtime is not guaranteed and is assigned at the discretion of management when it is needed.

The Postal Service rejects the Union's contention that Article 7.2 must be complied with before looking to Article 25 of the Agreement. The Union misreads the Bloch and Mittenthal awards because neither decision considered the impact of Article 25 or the practice of using cross-occupational details. The regional arbitration cases that the Union cites do not set precedent for National Arbitrations, and, the Postal Service insists, they generally misapplied the Bloch and Mittenthal decisions by wrongly concluding that if crossing craft lines is prohibited,

then crossing occupational groups must also be prohibited and/or failed to correctly apply Article 25.

The Postal Service points to my 2004 decision in which the issue related to cross-wage level assignments within the clerk craft. That National Arbitration decision found that there was no prohibition on intra-craft assignments within the clerk craft, without reaching the issue of occupational groups. In particular, that decision concluded that "wage levels" were not a category synonymous with "craft" for purposes of applying the restrictions in Article 7.2.B and C, rejecting regional arbitration awards to the contrary. Similarly, "occupation group" is not a category synonymous with "craft".

The Postal Service argues that the Union's position in this case would result in mooting Article 25, because if the Postal Service must look to Article 7.2 first, then the only temporary assignments that are permitted are to the same wage level to correct work imbalances. The Union's position also conflicts with the intentions of the parties in negotiations. Following the Union's interpretation would prohibit any temporary assignments unless they fall into Article 7.2, which would mean that some cross-craft assignments are sanctioned, while intra-craft movement, which was not intended to be restricted, would be prohibited completely. The Union's interpretation would also harm maintenance craft employees by creating a roadblock to the employees' path to skill enhancement and promotion.

The Postal Service contends there is no support for the Union's position that craft equals occupational group. The evidence relied on by the Union does not establish that this is a past practice. Indeed, the number of regional arbitration cases and log of pending cases on this issue show there has been no clarity or acceptance by the Postal Service that occupational group is the equivalent of craft.

## FINDINGS

While prior National Arbitration decisions have addressed the application of Article 7.2 to cross-craft work assignments and the parties have entered into a number of

agreements relating to application of Article 7.2, the issue posed by the Postal Service in the present case involves interpretation of the National Agreement and has not been directly addressed by the parties jointly or in National Arbitration. Accordingly, I find that this case does present an interpretive issue properly to be decided in National Arbitration. The essence of that issue is confined to whether a higher level detail assignment of a maintenance craft employee to work in another occupational group constitutes a violation of the National Agreement.

Absent a contractual proscription on such an assignment there can be no question that the Postal Service would have the right under Article 3 and pursuant to Article 25 to make such a higher level detail assignment on straight time rather than assigning overtime to an employee in the higher occupational group in which the assignment arises. The Union contends, however, that such an assignment would violate Article 7.2, while the Postal Service insists that Article 25, and not Article 7.2, applies to such an assignment.

The relevant provisions in Articles 7.2 and 25 remain essentially unchanged from when they were first negotiated in 1971. But in deciding the issue in this case, I am not starting with a clean slate. Significant National Arbitration decisions, particularly those by Arbitrators Bloch and Mittenthal in 1982, have put a substantial gloss on the bare language of Article 7.2. The parties have reflected that in their JCIM. Notably, the JCIM incorporates the premise that an assignment of an employee "across craft lines or occupational groups" can constitute a "violation of Article 7.2.B or 7.2.C."

Whatever the parties' original intent when they first adopted the relevant contract language in 1971, the Bloch and Mittenthal awards establish that Article 7.2 includes an "inherent proscription against crossing craft lines." Mittenthal's decision builds on Bloch's and states the principle that: "Where Management makes a cross-craft assignment, it must justify the assignment under the terms of [Article 7.2.B or 7.2.C.]"[1] Mittenthal further determined that

[1] The only other possible contractual authority for cross-craft assignments that has been brought to my attention is the reference in Article 7.2 of the applicable 2006 National Agreement to the MOU on page 288 which states that in the application of Article 7, among others, "cross-craft

the words "in the same wage level" in Article 7.2.B -- which also are in Article 7.2.C -- mean that the assignment must be to work in the same wage level.

Unlike crossing wage levels in the clerk craft -- the subject of the 2004 Das award -- I see no viable basis, given the language in Article 7.2, to distinguish between cross-craft assignments and cross-occupational group assignments insofar as the proscription found by Bloch and Mittenthal is concerned. In that respect, I agree with the regional arbitration decisions cited by the Union. The provisions in Article 7.2.A basically treat work in different crafts or occupational groups on an equivalent basis and Article 7.2.C specifically addresses when cross-occupational group assignments are permitted based on relative workloads. The parties' JCIM, as already noted, recognizes that a cross-occupational group assignment can constitute a violation of Article 7.2.B or 7.2.C. In other words, those provisions -- in the context of the general proscription applicable to cross-craft and cross-occupational group work assignments -- do not just permit certain cross-occupational group assignments, they prohibit others.

A detail to higher level bargaining unit work in a different occupational group, regardless of workload considerations, inherently cannot satisfy the requirement in Article 7.2.B or C that the assignment be to work "in the same wage level" consistent with the Mittenthal decision.[2]

Under these circumstances, a cross-occupational assignment not permitted under Article 7.2.B or C must be clearly authorized under some other provision of the National Agreement in order not to constitute a violation of those provisions.

The Postal Service relies on its authority to make higher level detail assignments under Article 25. And it is true that Mittenthal did not address Article 25 in his decision, noting

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assignments...shall continue as they were made among the six crafts under the 1978 National Agreement." The parties have not addressed this MOU in the present case.

[2] Cross-occupational group assignments to work in the same wage level are permissible provided they meet the conditions in Article 7.2.B or C.

that the Postal Service did not invoke Article 25 to justify the cross-craft assignment at issue. But unlike Articles 7.2.B and C, Article 25 does not authorize or permit cross-occupational group work assignments that otherwise are subject to the proscription found in Article 7.2. Rather, Article 25 provides for how employees are to be paid for higher level (or lower level) bargaining unit and non-bargaining unit work assignments and -- in Article 25.4 -- for how employees detailed to higher level work within each craft are to be selected.[3]

This determination that the provisions of Article 25 do not serve to overcome the general proscription in Article 7.2 against cross-craft and cross-occupational assignments does not render those provisions, including Article 25.4, meaningless. Those provisions apply to bargaining unit work assignments not subject to the proscription in Article 7.2, such as assignments within the clerk craft. Moreover, when those provisions first were agreed to between the Postal Service and the Joint Bargaining Committee in 1971, they also applied to the NALC and NPMHU crafts which -- like the clerk craft -- do not include occupational groups.

Accordingly, I conclude that the issues/questions raised by the Postal Service in initiating this dispute must be answered in the affirmative. Consistent with Article 7.2 of the National Agreement, as interpreted and applied in prior National Arbitration decisions, the Postal Service may not detail a maintenance craft employee to perform higher level work in a different occupation group to avoid paying overtime to an employee within that same occupational group. Cases and grievances held pending the decision in this National Arbitration case are to be addressed by the parties accordingly.

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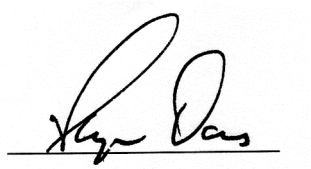
[3] The two August 1988 Step 4 National level grievance settlements introduced by the Union are instructive. They provide that the ET-09 and level 7 MPE and BEM occupation group position descriptions include duties of specified lower level occupational groups -- so as to permit employees in the higher occupation group to be assigned to perform such duties. If there was no general proscription on cross-occupation group assignments and/or if the provision in Article 25.2 stating that an employee temporarily detailed to a lower level position shall be paid at the employee's own rate authorized such an assignment there would have been no need for such an agreement.

AWARD

The issues raised by the Postal Service in this case are resolved on the basis set forth in the final paragraph of the above Findings.



Shyam Das, Arbitrator