

National Arbitration Case February 2017 Update

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Updates on Heard Cases

MS-1 Case (Q10T-4Q-C 14171644, 16481407)-Hearings were continued on February 2nd, 2017. This case will have significant impact on the bargaining unit and in fact already has. The case involves the staffing of maintenance positions that are responsible for keeping building systems (heating, plumbing, air conditioning, electrical, etc.) maintained and functioning. The Postal Service believes it is more cost effective to let the equipment “run to failure” and then be replaced instead of having regular preventative maintenance performed. They also are relying on “remote monitoring” to evaluate equipment performance and maintenance needs. We believe that this is a misguided plan to eliminate Building Equipment Mechanic positions and will cost the Postal Service dearly in the long run by continually having to replace equipment that could have been maintained by our maintenance professionals. The case has been continued again with additional hearings scheduled on April 25th and 26th, 2017.

POSTplan Custodial Staffing Case (Q10T-4Q-C 15206030) - The Postal Service continues to contract out work in small post offices (RMPOs) that under POSTplan are now administered by a larger post office (APO). The APWU argued that these types of offices must be considered one installation for the purpose of applying Article 38, the *Subcontracting Cleaning Services* MOU, and the *MS-47 Handbook*. Hearings took place on February 7th and 8th, 2017 with an additional hearing scheduled on April 18th, 2017.

MVS Schedule Examiner Vehicle Runs Case (Q10V-4Q-C 15292655) -This case was heard by Arbitrator Das on February 27th, 2017. The APWU argued that the Service has shifted bargaining unit work to management in the form of studies and initiatives such as “zero base” and the pilot usage of *Mobile Delivery Devices* (MDDs) thereby violating Article 1.6 of the Collective Bargaining Agreement. However, the merits of this case have not been heard. The Service has made a threshold argument that the case is not arbitrable because it is not an interpretative issue and requested that the case be bifurcated. Arbitrator Das granted the bifurcation request and the threshold issue was heard and we are now awaiting a decision on the arbitrability of the case.

Granting Administrative Leave for Political Caucuses Case (Q11N-4Q-C 16398841) - Briefs have been submitted and we are currently awaiting a decision.

Clerk Craft 204(b) Exception Case (Q10C-4Q-C 14054054) – Briefs have been submitted for this case and we are awaiting a decision at this time.

MPI-LAN Case (Q00C-4Q-C 04003182) – We are currently awaiting a decision.

Clerk Craft MOU Case (Q10C-4Q-C 15174956) – Briefs for this case were recently submitted and we are awaiting a decision.

POSTplan MOU Staffing Case (Q10C-4Q-C 15206043)-This case involves the Service’s staffing of POSTplan offices and was heard on March 7th, 2017. The APWU asserts that the Service has been improperly staffing the POSTplan offices with Postmasters and Postmaster Reliefs (PMRs). The parties agreed to a date of December 22, 2014 as a deadline for the POSTplan offices to be appropriately staffed. The agreement called for Level 4 POSTplan offices to be staffed by bargaining unit PSEs, Level 6 POSTplan offices to be staffed by career employees (FTR traditional, FTR non-traditional, or a PTF), and

any PSE with a D/A code of 81-8 in a Level 18 office to be replaced by a career position. Postmasters and PMRs were to be removed from the POSTplan offices. We are seeking a national remedy for all violations of paying the bargaining unit employee who lost that work at the appropriate rate and where a bargaining unit employee can't be identified negotiate a substitute monetary remedy with the union. The Postal Service made a threshold argument and sought bifurcation of the case. However, Arbitrator Goldberg heard both the threshold issue and merits of the case to completion.

Upcoming Cases

MVS Driver Instructor Examiner Position Case (Q00V-4Q-C 05171465)-Arbitrator Das has been scheduled to hear this case on March 29th and 30th, 2017. We will be presenting arguments that this position is improperly ranked as a PS-06 position. We believe it should be a PS-08 position as the position qualification standard states that an employee must be qualified to drive every vehicle in the local post office. In the local post offices, most have Tractor Trailer Operators (TTO). The TTO position is a PS-07 position. Based on the Clerk Craft Step-4 award (H4C-1E-C-6348) that grants a higher level of pay for an employee who trains another employee of an equal level and the fact that there is not a dual position to allow for multiple levels, the APWU believes the standard must be based on training TTOs and therefore the appropriate pay level is PS-08.

Sales Retention Team (SRT) Case (Q10C-4Q-C 14011344)-As of the date this is written, the Service has not complied with the SRT decision issued by Arbitrator Goldberg on December 8, 2016. The parties have been unable to come to an agreement on what the appropriate remedy must be. A Remedy hearing has been scheduled in front of Arbitrator Goldberg on April 19th, 2017.

NLRB Case of Note

Postal Regulations on Recording, Photographing, or Videotaping on Postal Property (18-CA-142795)

On March 27th and 28th, 2017 a hearing was held in front of an administrative law judge of the National Labor Relations Board (NLRB). The General Counsel (prosecutor for NLRB) argued the Service's policies (ELM 667.2, Handbook AS-805, and ASM 663.4) of not being able to record, photograph, or videotape anything can be construed as chilling an individual's right to engage in protected and concerted activities guaranteed under Section 7 of the National Labor Relations Act. Similar policies have been struck down by the Board in the private sector (*Whole Foods 13-CA-103533, 103615*). The Service argued its policies are legal because they must prevent photographing of the mail, the Service's obligations under the Privacy Act, the special security needs of the Postal Service, and need for confidentiality in the EEO process all justify the restrictions they have in place. The APWU, NPMHU, and NALC all intervened and participated in the hearing. The APWU supported the General Counsel's position. Director Zimmerman testified to the realities of why photographing in a Postal facility can protect both the health and safety of the employees. Post-hearing briefs are due at the end of March and the judge will likely render a decision in late spring, which will then go before the board.

Cases Decided

SEAM Case (Q10C-4Q-V 13265789; Q10V-4Q-C 13184778) – Arbitrator Goldberg rendered a decision on February 3, 2017 denying the grievance.