

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)
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August 14, 2008

VIA FACSIMILE AND FIRST CLASS MAIL


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

Re: USPS Dispute No. Q00C4QC07097274, APWU No. HQTG20072,
Individual Retirement Counseling

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

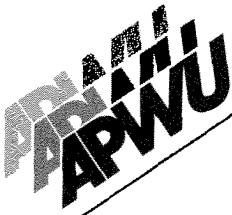
USPS #: Q00C4QC06054413
APWU #: HQTG20063

Case Officer: Greg Bell
Step 4 Appeal Date: 2/6/2006
Contract Article(s): 19, Handbook or Manual
Provisions;

cc: Resident Officers
Industrial Relations

File

GB/LB



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Article 15 - 15 Day Statement of Issues and Facts

Greg Bell, Director
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(202) 842-4273 (Office)
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August 12, 2008

Via Facsimile and First Class Mail

Ms. Mary Hercules
Labor Relations Specialist
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, D.C. 20260

National Executive Board

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President

Cliff "C. J." Guffey
Executive Vice President

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Central Region Coordinator

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Eastern Region Coordinator

Elizabeth "Liz" Powell
Northeast Region Coordinator

William "Bill" Sullivan
Southern Region Coordinator

Omar M. Gonzalez
Western Region Coordinator

Re: USPS No. Q00C4QC07097274; APWU No. HQTG20072,
Individual Retirement Counseling

Dear Ms. Hercules:

On June 26, 2008, we met to discuss the above-referenced dispute at Step 4 of the grievance procedure. The parties mutually agreed to submit their written statements no later than August 12, 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 concerns the Postal Service's unilateral decision that resulted in the discontinuation of established local methods of providing individual retirement counseling benefits to bargaining unit employees. These local methods of providing individual retirement counseling constituted mutually accepted past practices which created a job-related benefit for bargaining unit employees. The binding nature of this practice is evident because it is a benefit of personal value to employees and a major condition of employment due to its effect on bargaining unit employees' decisions regarding retirement. Moreover, the practice became "the prescribed way of doing things" because it was supported by mutual agreement. Furthermore, since it was based on mutual agreement, it can only be changed by mutual agreement.

It is the APWU's position that the Postal Service's unilateral decision to eliminate established local methods of providing individual retirement counseling benefits violates the collective bargaining agreement and the mutually accepted past practice of providing individual retirement counseling benefits (a benefit of peculiar personal value) to bargaining unit employees.

Re: USPS No. Q00C4QC07097274

August 12, 2008

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It is the APWU's position that the previously established local methods of providing individual retirement counseling be restored.

Please contact me if you wish to discuss this matter.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG20063
USPS #: Q00C4QC06054413

Dispute Date: 2/6/2006
Contract Articles: 19, Handbook or Manual
Provisions;

cc: Industrial Relations

GB/lb



August 12, 2008

Mr. Greg Bell
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005-4128

Hand Delivered

**RE: Q00C-4Q-C 07097274 / HQTG20072
Washington, DC 20260-4100**

On several occasions, the latest date being June 26, we met to discuss the above-captioned grievance at the fourth step of our grievance/arbitration procedures. In accordance with Article 15.2.Step4.a, this letter sets forth the Postal Service's understanding of the issues involved and the facts giving rise to these issues.

Background:

By letter dated September 11, 2006, the Postal Service notified the APWU of its proposed revisions to Employee and Labor Relations Manual Sections (ELM) 569.1¹ and 589.1.² Included with this letter were the explanation of the changes, copies of the proposed changes and an electronic file.

The APWU requested a meeting to discuss these revisions. Meetings were held on October 16, 2006, and December 5, 2006.

By letter dated January 8, 2007, the Postal Service provided the APWU with the final revisions to ELM 569.1 and 589.1 and responses to the union's questions raised at the October 16, 2006, meeting.

On January 18, 2007, the revisions to ELM Sections 569.1 and 589.1 were published in Postal Bulletin 22198.

By letter dated March 2, 2007, the APWU initiated the instant dispute.

Issue Presented:

Whether there is a violation of the Step 4 Settlement Agreement in case number Q00C-4Q-C 06054413, when the Postal Service implemented Article 19 changes to Sections 569.1 and 589.1 of the Employee and Labor Relations Manual (ELM).

Position of the Parties:

It is the APWU's position that "the elimination of the previously established individual retirement counseling at the local level violates past practice, the collective bargaining agreement, and the intent of the parties' Step 4 settlement in case Q00C-4Q-C06054413."

¹ Section 560 refers to Civil Service Retirement (CSRS) Program.

² Section 589 refers to Federal Employees Retirement System (FERS)

The Postal Service disagrees. In the settlement agreement for case number Q00C-4Q-C 06054413, the parties agreed that the then existing ELM sections regarding individual retirement counseling would be restored. Specifically, the parties agreed to the following:

"Pursuant to the current provisions of ELM Sections 569.123, 589.123, 569.141, and 589.131, management will provide individual and group retirement counseling. Previously established local methods of providing individual retirement counseling that were discontinued during the pendency of the instant dispute will be restored. This settlement does not prejudice either party's rights pursuant to Article 19 of the National Agreement."

The Settlement Agreement was signed August 4, 2006. Article 19, *Handbooks and Manuals*, of the National Agreement grants the Postal Service the right to make changes to handbooks, manuals, and published regulations that are not inconsistent with the Agreement and that are fair, reasonable, and equitable. The Article 19 process was followed in implementing the above-specified ELM revisions. Furthermore, the Postal Service believes the changes are consistent with the National Agreement, fair, reasonable, and equitable. Notably, the APWU did not file an Article 19 direct appeal to arbitration on these ELM changes.

In addition, the Postal Service, in good faith, clearly advised the APWU representative, prior to signing this agreement that it intended in the future to make changes to these ELM provisions. This intention is also clear from the explicit language found at the last sentence of the settlement agreement, i.e. "this settlement does not prejudice either party's rights pursuant to Article 19 of the National Agreement." Nothing in this settlement agreement precludes the Postal Service from making the ELM revisions.

Accordingly, for the aforementioned reasons, it is the Postal Service's position that the ELM revisions do not violate the settlement agreement, past practice or the National Agreement.

Step 4 time limits were waived by mutual agreement with the understanding that the 15-day position statements would be submitted no later than August 12.

Sincerely,



Mary Hércules
Labor Relations Specialist
Contract Administration (APWU)