

APWU

American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Mike Morris, Director
Industrial Relations
1300 L Street, NW
Washington, DC 20005
202-842-4273 (Office)
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Fax & First Class Mail Initiate National Dispute

August 17, 2011

National Executive Board

Cliff Guffey
President

Greg Bell
Executive Vice President

Elizabeth "Liz" Powell
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Coordinator, Central Region

Mike Gallagher
Coordinator, Eastern Region

John H. Dirzius
Coordinator, Northeast Region

Princella Vogel
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

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

Re: APWU#HQTG20110463; Unencumbered/Unassigned Regulars

Dear Mr. Tulino:

In accordance with the provisions of Article 15, Section 2 and 4, of the Collective Bargaining Agreement, the American Postal Workers Union is initiating a Step 4 dispute regarding the scheduling of unencumbered/unassigned full-time employees.

The Postal Service has issued instructions to the field that employees in the Clerk and MVS crafts converted from PTF or PTR to FT on August 27, 2011 in accordance with the 2010-2015 CBA may become unencumbered/unassigned employees with non-traditional work schedules.

Article 7.1.A.1 requires that full-time employees "shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week."

Article 8.1 states that "(t)he work week for full-time regulars shall be forty (40) hours per week, eight (8) hours per day within ten (10) consecutive hours... (or) within nine (9) consecutive hours..." in offices with more than 100 full-time employees.

Article 8.2.C provides that a full-time regular's "normal work week is five (5) service days, each consisting of eight (8) hours..."

The Non-Traditional Full-Time (NTFT) Duty Assignments MOU contained in the 2010 CBA provides the rules for creation and posting of NTFT duty assignments **when operationally necessary**.

The MOU does not provide for unencumbered/unassigned NTFT schedules.

Doug Tulino
August 17, 2011
APWU#HQTG20110463
Page 2

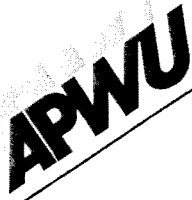
It is requested that you or your designee contact my office at (202) 842-4273 in order to schedule a meeting to discuss this important issue pursuant to Article 15, Section 2 and 4 of the CBA.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Morris", with a long horizontal flourish extending to the right.

Mike Morris, Director
Industrial Relations

MM:bw
OPEIU #2
AFL-CIO



Fax & First Class Mail

American Postal Workers Union, AFL-CIO

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Mike Morris, Director
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Article 15 - 15 Day Statement of Issues and Facts

September 12, 2011

National Executive Board

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

Re: APWU#HQGTG20110463; Unencumbered/Unassigned Regulars

Dear Mr. Tulino:

In accordance with Article 15.4.D of the National Agreement, this letter is the Union's 15-day statement setting out the Union's understanding of the issues involved in and the facts giving rise to such issues in the national dispute initiated by my letter of August 17, 2011, which is incorporated here by this reference.

The issue identified by the Union in its dispute is its challenge to the Postal Service having issued, formally or informally, directives, instructions, and/or guidance to the field that Clerk and Motor Vehicle Craft employees converted from PTF or PTR status to Full-Time regular status on August 27, 2011, in accordance with the Non-Traditional Full-Time (NTFT) Duty Assignment Memorandum of Understanding ("NTFT MOU") in the 2010-2015 National Agreement, may become unencumbered/unassigned employees working the non-traditional work schedules which are also not posted for bid. Although the NTFT MOU requires or creates the opportunity for the creation of non-traditional full-time duty assignments, the MOU does not alter or eliminate the basic requirement repeated several places in the National Agreement that full-time regular employees work a regular fixed schedule or the requirement that these new NTFT duty assignments must be posted for bid. The Postal Service's instruction violates these principals and provisions of the National Agreement.

A number of Articles of the National Agreement state and re-state the regular schedule rule, including, but not limited to, the following:

Article 7.1.A.1 states:

Full-Time. Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.

Article 8.1 states: “The work week for full-time regulars shall be forty (40) hours per week, either (8) hours per day within ten (10) consecutive hours [or]...within nine (9) consecutive hours.”

Article 8.2.C states: “The employee’s normal work week is five (5) service days, each consisting of either (8) hours, within ten (10) consecutive hours...”

Article 37.1.B states: “**Duty Assignment.** A set of duties and responsibilities within recognized positions regularly scheduled during specific hours of duty.”

As these Articles state, a full-time regular employee works an amount of time that is full-time as defined by the National Agreement and a regular schedule as compared to a flexible schedule. The Postal Service has acknowledged that “non-traditional” is not a position or job classification, but an overall description of a type of work schedule for a duty assignment. It follows, the Union contends and we believe the NTFT MOU supports, that the basic requirements for full-time regular schedules continue to apply to otherwise non-traditional schedules. Nothing in the NTFT MOU establishing the parties’ agreement on non-traditional regular schedules says or implies otherwise.

Also important, the process of placing employees in newly-created NTFT regular duty assignments requires the Postal Service first to post the new duty assignment. The NTFT MOU expressly permits PTRs and PTFs to “be assigned to any residual NTFT duty assignment in accordance with Articles 37 and 39, respectively.” Article 37.3.A.1. states, however and by way of example, that “[a]ll newly established Clerk Craft duty assignments shall be posted to craft employees eligible to bid within 28 days,” and goes on to state in Article 37.3.A.1a.1 that “[n]ewly established full-time duty assignments are posted to full-time employees eligible to bid.” Similarly, Article 39.1.C.9 defines a “Residual Vacancy” as “[a] duty assignment that remains vacant after the completion of the voluntary bidding process.” (emphasis added.) Because the parties expressly agreed to limit the Postal Service’s opportunity to assign employees to NTFT duty assignments with the long-established posting and bidding requirements of Article 37 and 39, the Postal Service must follow those requirements by posting NTFT duty assignments before assigning employees to them as unencumbered or unassigned regular employees.

Finally, as remedy we request the Employer cease and desist from this, or any like or related violations of the National Agreement. In addition, we request that all affected

employees, the Union and the bargaining unit be made whole, including but not limited to compensating affected employees for lost work hour opportunities and disgorging any savings obtained by the Postal Service because of its violations.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Morris", with a long horizontal flourish extending to the right.

Mike Morris, Director
Industrial Relations

MM:bw
OPEIU #2
AFL-CIO

APWU

Fax and First Class Mail

American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Appeal to Arbitration, National Dispute

September 15, 2011

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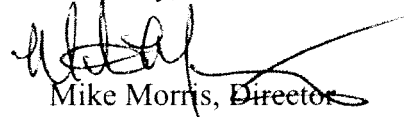
Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: USPS Dispute #Q11C4QC11322481, APWU #HQTG20110463
Unencumbered/Unassigned Regulars

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,


Mike Morris, Director
Industrial Relations

cc: Residents Officers

MM:bw
OPEIU #2
AFL-CIO



September 12, 2011

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

**CERTIFIED MAIL NUMBER:
7010 2780 0003 6469 2445**

RE: Q11C-4Q-C 11322481
APWU # HQTG20110463
Washington, DC 20260-4100

Dear Mike,

In accordance with Article 15.2 (Step 4) (a), the Postal Service is providing you with its understanding of the issue involved. The parties have discussed the issue in this dispute on several occasions and have been unable to reach an agreement. Time limits at this level were extended by mutual consent, as it relates to the exchange of position statements ("15-day letters"), with the understanding that the Postal Service would mail its position statement on September 12, 2011.

Issue Presented

The issue presented by the Union, according to its August 17, 2011 letter in initiating this dispute, alleges that the USPS violated Article 7.1.A.1, Article 8.1, 8.2.C, and the Non-Traditional Full-Time (NTFT) Memorandum of Understanding (MOU) when it issued instructions to the field that employees in the Clerk and MVS crafts, converted from Part-Time Flexible (PTF) or Part-Time Regular (PTR) to Full-Time (FT) on August 27, 2011 in accordance with the 2010-2015 Collective Bargaining Agreement (CBA), may become unencumbered/unassigned employees with non-traditional work schedules.

Background

The Non-Traditional Full-Time (NTFT) Duty Assignments Memorandum of Understanding (MOU), incorporated into the 2010 Agreement with the American Postal Workers Union (APWU), as agreed by the parties, provides for the conversion of Part-Time Flexible and Part-Time Regular Clerks in accordance with the following:

- *"There will no longer be Part-Time Flexible (PTF) employees working in Function 1 or in post offices Level 21 and above."*
- *"There will no longer be Part-Time Regular (PTR) employees in the clerk craft."*
- *"There will no longer be Part-Time Regular (PTR) and Part-Time Flexible (PTF) employees in the motor vehicle craft. Management may create Flexible Non-Traditional Duty assignments to replace PTR and PTF duty assignments."*

The NTFT MOU provides for the establishment of Full-Time assignments with work schedules between 30 – 48 hours a week; establishes rules for work hours, schedules, and reposting of NTFT positions, and provides for the conversion of Part-Time Flexible employees in the Clerk and Motor Vehicles Services (MVS) crafts. It is undisputed that the NTFT MOU contains no new or modified language with regard to the posting, bidding, and application of full-time clerk positions, or the provisions regarding the assignment of Unencumbered/Unassigned Regular employees.

APWU Position

The Postal Service issued instructions to the field that employees in the Clerk and MVS crafts converted from PTF or PTR to FT on August 27, 2011 in accordance with the 2010-2015 CBA may become unencumbered/unassigned employees with non-traditional work schedules.

Article 7.1.A.1 requires that full-time employees “shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.”

Article 8.1 states that “(t)he work week for full-time regulars shall be forty (40) hours per week, eight (8) hours per day within ten (10) consecutive hours...(or) within nine (9) consecutive hours...” in offices with more than 100 full-time employees.

Article 8.2.C provides that a full-time regular’s “normal work week is five (5) service days, each consisting of eight (8) hours...”

The Non-Traditional Full-Time (NTFT) Duty Assignments MOU contained in the 2010 CBA provides the rules for creation and posting of NTFT duty assignments when operationally necessary.

The MOU does not provide for unencumbered/unassigned NTFT schedules.

USPS Position

It is the Postal Service’s position that while the union has alleged violations of the Agreement, the union has failed to identify a specific national interpretive dispute as required by Article 15.2 (step 4).

It is the Postal Service’s position that the Union has failed to support their allegations; in that the union does not refer to any specific instance where the Postal Service has actually issued such instructions; the person(s) issuing such; or the date they were issued. The union has failed to claim, much less demonstrate, that any field manager, postmaster or supervisor ever acted in accordance with these claimed instructions. While alleging intent to violate the Agreement, the union has failed to demonstrate that any actual violation has in fact occurred.

The NTFT MOU, as agreed by the parties, provides for the establishment of NTFT assignments with work schedules between 30-48 hours per week. Pursuant to the June 28, 2011 Questions & Answers, #27 & #28, the USPS agreed to convert PTF and PTR employees to regular status by August 27, 2011. Although the Postal Service had not yet agreed to post duty assignments for the converted PTF’s/PTR’s, the Union was advised that because of systems requirements, duty assignments could not be posted for bidding until late September. Accordingly, the USPS requested an extension for the deadline to convert PTF & PTR employees in accordance with the NTFT MOU. The Union refused. Therefore, the USPS was left with the requirement to convert PTFs & PTRs by

August 27, 2011, regardless of whether or not systems requirements could be programmed to accommodate the posting of NTFT duty assignments by that same date. The Postal Service lived up to the commitment to convert PTFs & PTRs as agreed. The converted PTFs and/or PTRs were converted to regular status and provided unassigned regular work schedules in anticipation of the posting of NTFT assignments as soon as technically possible.

In accordance with Article 37.4.B, unassigned regular employees are to be notified of a change in their work schedule within the first 28 days after the date on which the employee became unassigned. Additional work schedule changes may be made, provided that such change cannot be made effective until 180 days after the effective date of any previous change. Unassigned regular clerks have the right, and are encouraged, to bid on any vacant full-time assignments for which they are eligible to bid. This is not new language.

The creation of Non-Traditional Full Time (NTFT) assignments, at the suggestion of the APWU, and as agreed by the parties, was intended to give the USPS the ability to re-tool full-time assignments to provide operationally needed flexibility, with the express intent of minimizing the circumstances in which excessing would be required. Article 12.5.B defines the principles and requirements of involuntary reassignments, the first of which is that, "Dislocation and inconvenience to full-time and part-time flexible employees shall be kept to the minimum consistent with the needs of the service."

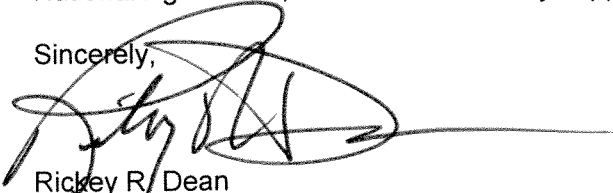
Given the understanding that the parties have agreed full-time assignments can be between 30-48 hours per week, and the expressed intent of the establishment of NTFT assignments as stated above, it is logical and entirely reasonable that the newly converted PTFs/PTRs, absent newly established or vacant Clerk Craft duty assignments, would be given work schedules similar to the anticipated NTFT duty assignments. The protection provided in the first paragraph of the NTFT MOU applies to Clerk and MVS employees "*who at the signing of this Agreement, has a full-time work schedule of 40 hours a week...*" does not apply to PTFs or PTRs. This reasoning is consistent with the parties' intention, in creating NTFT assignments, to minimize the circumstances that would require excessing. Requiring the USPS to provide Unassigned Regular work schedules in excess of 40 hours per week would necessitate the initiation of new excessing events.

The Union's alleged violation of Article 7.1.A.1, Article 8.1, and 8.2.C, is inconsistent with the finalized draft of the 2010 Agreement, which has been jointly prepared for publishing, in that references are made under both articles to the NTFT Duty Assignments MOU. This is repeated in other sections of Article 8 and Article 12, showing clearly that the parties agreed to full-time assignments with work schedules that could be between 30-48 weekly hours. It is the USPS position that the NTFT MOU, including the conversion of PTFs & PTRs, eclipses the pre-existing requirements regarding work week and work schedules under Article 8. For the purpose of conversions to full-time, the NTFT MOU pre-dominates the already existing requirements. Ordinarily, when duty assignments are created, existing language in these articles would apply. In this unique conversion of PTRs and PTFs, the NTFT MOU, as agreed by the parties, applies. This reasoning is again consistent with the stated intent to minimize the circumstances requiring excessing already mentioned above.

As such, the Union has not shown any violations of the Agreement and/or the referenced MOU.

Past practice, negotiations history, case law, handbooks and manuals, and reading of the National Agreement, and arbitral authority support management's interpretation

Sincerely,

A handwritten signature in black ink, appearing to read "Rickey R. Dean", with a long horizontal line extending to the right.

Rickey R. Dean
Labor Relations Specialist
Contract Administration (APWU)