

C# 18452

REGULAR ARBITRATION PANEL

IN THE MATTER OF THE ARBITRATION	(GRIEVANT: MANGANELLO
BETWEEN	(CASE NO. C94N-4C-C 98022262
	(GTS NO: 18812
UNITED STATES POSTAL SERVICE	(
	(
- AND -	(
	(POST OFFICE: LANCASTER, PA.
NATIONAL ASSOCIATION OF LETTER	(
CARRIERS	(

HEARING HELD AT: LANCASTER, PA. JUNE 17.1998

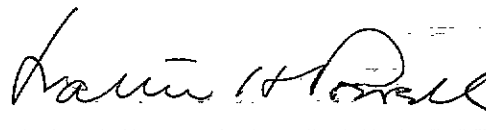
ARBITRATOR WALTER H. POWELL, Esq.

APPEARANCES: U. S. P. S: JOHN A. HOFFMAN, Sr. Labor Rel. Specialist

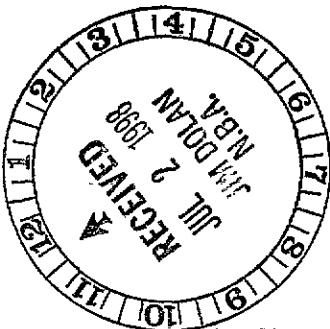
N.A.L.C. : ALLEN STUART, Advocate

**AWARD: GRIEVANCE IS GRANTED. GRIEVANT SHALL BE PAID \$ 40
FOR MEDICAL EXPENSES.**

JUNE 30, 1998



WALTER H. POWELL, Arbitrator



The above numbered case was rescheduled in lieu of prior designated cases.

ISSUE

**DID THE POSTAL SERVICE VIOLATE THE NATIONAL AGREEMENT IN
DENYING THE GRIEVANT APPROPRIATE LEAVE AND DEMANDING
MEDICAL DOCUMENTATION ? IF SO WHAT SHALL THE REMEDY BE?
BE?**

FACTS AND BACKGROUD

The grievant, John Manganello requested dependent leave because of his son's illness. This occurred on Wednesday June 4, 1997, he called in and requested Dependent Leave. His supervisor reminded him that he must bring in documentation to support the illness of his son. The following day when the grievant reported into work, he gave his supervisor a note signed by himself stating that his son had been ill the previous day and that it was necessary for him to stay home with the child. The supervisor insisted that he needed proper medical documentation from a medical doctor,

The grievant cased his mail and took sick leave for the remainder of the day while he took his son to the doctor for a medical excuse. It is the contention of the grievant and the union, that such medical documentation was not required

and that the grievant should not have been required to furnish this type of documentation.

POSITION OF THE UNION: Under the provisions of the Family Leave Act, the employee is permitted up to eighty (80) hours a year for dependent care. Grievant has the responsibility for assuring management that he was legitimately caring for a family member. The same type of proof is necessary for family leave as for personal sick leave. Requiring a medical document from a licensed physician is not necessary. The request for such documentation is punitive and is not required by any particular sections of the labor agreement nor the ELM.

Grievant should be reimbursed for medical expenses, mileage and have the additional sick leave time converted to administrative leave.

POSITION OF THE POSTAL SERVICE: Sick leave for dependents is handled the same as requests for other sick leave for an employee. Medical documentation may be required of an employee when seeking sick leave, and the same may be required of the employee who seeks sick leave for one of his dependents. Approval will be based on the same criteria that is used for the granting of sick leave or other types of leave.

There is no contractual requirement that would support the relief requested for the grievant by his Union. Management's request for documentation is consistent with its policing of leaves for sickness or other types of annual leave. Grievance should be denied.

DISCUSSION AND OPINION

Pertinent and applicable sections of the National Agreement and other Manuals read as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S.P.S. AND THE N.A.L.C. (page 162 of the National Agreement) reads as follows:

Re: Sick Leave

The parties agree that during the term of the 1994 National Agreement,

sick leave may be used by an employee to give care or otherwise attend to a family member with illness, injury or other condition, which, if an employee had such condition would justify the use of sick leave by that employee. Family members shall include son, or daughter, parent and spouse as defined in ELM Section 515.2. Up to 80 hours of sick leave may be used for dependent care in any leave year. Approval of sick leave for dependent care will be subject to normal procedures for leave approval.

ELM 513.36 Documentation Requirements

513.361 3 days or less. For periods of absence of 3 days or less, supervision may accept the employees' statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (see 513.37) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

A reading of the aforementioned rules and regulations clearly states that care or attending a family member is to be considered the same as the employee's personal illness. The only caveat is that it cannot exceed eighty (80) hours in a given work year. The other condition that might be applicable is if the absence caused by a family member is three days or more then ELM 513.362 would come into effect. That is not the factual situation before us. The family member was sick for a day, and the documentation proffered by the grievant

should have been acceptable and the matter finished at that point.

There are two exceptions when medical documentation might be required. the first is if the employee seeking the leave for taking care of a family member is on restricted sick leave, then the requirements might be applied to his case. The other condition is if the supervisor deems documentation desirable for the protection of the Postal Service. If the supervisor believes that it is necessary for the best interests of the Postal Service, then the burden of proof shifts to that supervisor and he or she is required to affirmatively prove why it is necessary. No such proof was offered in this case, and it must be assumed and presumed that the supervisor was over zealous in seeking medical documentation. There was no indication that there was any personal animus, nevertheless the supervisor's action must be considered as either arbitrary or capricious.

What is even more serious is that the reviewing authorities at the second and third step of the grievance procedure merely rubber stamped their denial of the grievance. Unfortunately this failure to read the appropriate paragraphs not only adds to the excessive amount of back arbitrations but it also adds to the cost of the grievance process for both parties. More important it has an adverse effect on employee morale. Supervisors and reviewing authorities must be encouraged to settle grievances at the lowest level of command that is possible.

There is nothing in the record that would suggest that the grievant has abused the sick leave provisions of the agreement. There is nothing to suggest that his son was not ill. The actions of his supervisor were perhaps over zealous.

However, reviewing authorities are charged with reviewing the facts as well as the appropriate and applicable provisions of the National Agreement and other manuals.

My findings are that this was mistake in judgment and the grievant should be reimbursed for out of pocket expenses in having to take his son to a doctor after the fact and incur the inconvenience of the trip plus the cost in paying the doctor. I am ordering the payment of forty (\$40) dollars to the aggrieved for his out of pocket expenses.

AWARD

**GRIEVANCE IS GRANTED. GRIEVANT SHALL BE AWARDED
FORTY (\$40) FOR DOCTOR'S EXPENSE.**

June 30, 1998

A handwritten signature in cursive script, appearing to read "Walter H. Powell", is written over a horizontal line.

WALTER H. POWELL, Arbitrator