

C # 18743

NATIONAL ARBITRATION PANEL

In the Matter of Arbitration

Grievance: 204(b) Dispute

between

Case No. E94N-4E-C 96060312

UNITED STATES POSTAL SERVICE

and

NATIONAL ASSOCIATION OF  
LETTER CARRIERS

BEFORE: Carlton J. Snow, Professor of Law

APPEARANCES: For the Union: Mr. Keith E. Secular

For the Employer: Mr. Howard J. Kaufman

PLACE OF HEARINGS: Washington, D.C.

DATES OF HEARINGS: December 16-17, 1997

POST-HEARING BRIEFS: March 16, 1998

RELEVANT CONTRACT PROVISION: Article 41

CONTRACT YEAR: 1994-1998

TYPE OF GRIEVANCE: Contract Interpretation

RECEIVED

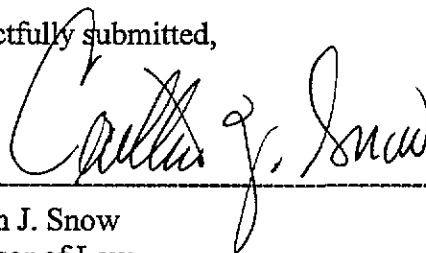
OCT 8 1998

CONTRACT ADMINISTRATION UNIT  
N.A.L.C. WASHINGTON, D.C.

AWARD

Having carefully considered all evidence submitted by the parties concerning this matter, the arbitrator concludes that the grievance must be denied. It is so ordered and awarded.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carlton J. Snow". The signature is written in black ink and is positioned above a horizontal dashed line.

Carlton J. Snow  
Professor of Law

Date: October 2, 1998

IN THE MATTER OF ARBITRATION	)	
	)	
BETWEEN	)	
	)	ANALYSIS AND AWARD
UNITED STATES POSTAL SERVICE*	)	
	)	Carlton J. Snow
AND	)	Arbitrator
	)	
NATIONAL ASSOCIATION OF	)	
LETTER CARRIERS	)	
(204(b) Grievance)	)	
(Case No. E94N-4E-C 96060312)	)	

I. INTRODUCTION

This matter came for hearing pursuant to the 1994-1998 collective bargaining agreement between the parties. Hearings took place on December 16-17, 1997 in a conference room of Postal Headquarters located in Washington, D.C. Mr. Keith E. Secular of the Cohen, Weiss, and Simon law firm in New York City represented the National Association of Letter Carriers. Mr. Howard J. Kaufman, Senior Counsel, represented the United States Postal Service.

The hearings proceeded in an orderly manner. The parties had a full opportunity to submit evidence, to examine and cross-examine witnesses, and to argue the matter. All witnesses testified under oath as administered by the arbitrator. On the first day of

hearing. Ms. Patricia Kueber and, on the second day of hearing, Ms. Barbara J. Smith, both of Diversified Reporting Services, Inc., was present to report the hearings and subsequently submitted a transcript of 129 pages. The advocates fully and fairly represented their respective parties.

The parties stipulated that the matter properly was before the arbitrator and that there were no issues of substantive or procedural arbitrability to be resolved. They elected to submit the matter on the basis of evidence presented at the hearing as well as post-hearing briefs. The arbitrator officially closed the hearing on March 16, 1998 after receipt of the final post-hearing brief in the matter. On March 23, 1998, the arbitrator received a telephone call from Postal Headquarters indicating that the parties had agreed to hold any decision in abeyance because settlement talks were under way. Hearing nothing more, the arbitrator inquired about the status of the matter on September 23, 1998. On September 30, 1998, the parties notified the arbitrator that a decision should be issued immediately.

## II. STATEMENT OF THE ISSUE

The issue before the arbitrator is as follows:

May the Employer assign a 204(b) supervisory position to a residual Letter Carrier Craft vacancy while the employee remains in 204(b) status?

### III. RELEVANT CONTRACTUAL PROVISIONS

#### ARTICLE 41. LETTER CARRIER CRAFT

##### **Section 1. Posting**

A. In the Letter Carrier Craft, vacant craft duty assignments shall be posted as follows:

1. A vacant or newly established duty assignment not under consideration for reversion shall be posted within five working days of the day it becomes vacant or is established.

All city letter carrier craft full-time duty assignments other than letter routes, utility or T-6 swings, parcel post routes, collection routes, combination routes, official mail messenger service, special carrier assignments and night routers, shall be known as full-time Reserve Letter Carrier duty assignments. The term "unassigned regular" is to be used only in those instances where full-time letter carriers are excess to the needs of the delivery unit and not holding a valid bid assignment.

2. Letter carriers temporarily detailed to a supervisory position (204b) may not bid on vacant Letter Carrier Craft duty assignments while so detailed. However, nothing contained herein shall be construed to preclude such temporarily detailed employees from voluntarily terminating a 204b detail and returning to their craft position. Upon return to the craft position, such employees may exercise their right to bid on vacant letter carrier craft duty assignments.

The duty assignment of a full-time carrier detailed to a supervisory position, including a supervisory training program in excess of four months shall be declared vacant and shall be posted for bid in accordance with this Article. Upon return to the craft the carrier will become an unassigned regular. A letter carrier temporarily detailed to a supervisory position will not be returned to the craft solely to circumvent the provisions of Section 1.A.2.

Form 1723, Notice of Assignment, shall be used in detailing letter carriers to temporary supervisor positions

(204b). The Employer will provide the Union at the local level with a copy of Form(s) 1723 showing the beginning and ending of all such details.

7. An unassigned full-time carrier may bid on duty assignments posted for bids by employees in the craft. If the employee does not bid, assignment of the employee may be made to any vacant duty assignment for which there was no senior bidder in the same craft and installation. In the event there is more than one vacancy due to the lack of bids, these vacancies may be filled by assigning the unassigned full-time carriers, who may exercise their preference by use of their seniority. In the event that there are more unassigned full-time carriers than vacancies, these vacancies may be filled by assigning the unassigned employees by juniority.

#### **D. Other Positions**

City letter carriers shall continue to be entitled to bid or apply for all other positions in the U.S. Postal Service for which they have, in the past, been permitted to bid or apply, including the positions listed below and any new positions added to the list.

#### **IV. STATEMENT OF FACTS**

In this case, the Union challenges contractual authority of the Employer to assign a current 204(b) employee to a craft vacancy. The grievance arose in Hillsboro, Oregon when the Employer placed a letter carrier in a temporary supervisory position of another unit. When the letter carrier's regular position had been vacant for four months, the Employer posted the vacancy for bids in accordance with its interpretation of Article 41.1.A.2 of the parties' collective bargaining agreement.

After employees went through the bidding process, one position remained vacant, that is, a "residual vacancy." Having received no bids for the residual vacancy, the

Employer assigned it to a letter carrier who had been placed in a temporary supervisory position. At the time, however, he remained on his supervisory detail. The Union grieved the Employer's action on behalf of a part-time flexible employee who would have been promoted to the residual vacancy had the temporary supervisor not been assigned to it. The matter proceeded through the grievance procedure. When the parties were unable to resolve their differences, the dispute came for arbitration.

## V. POSITION OF THE PARTIES

### A. The Union

The Union offers a three-pronged argument in support of its position. The primary argument set forth by the Union is that assigning a current 204(b) to a craft vacancy violates Article 41 of the parties' labor contract because such action by management is inconsistent with the contractual instruction that a 204(b) employee becomes an "unassigned regular" after returning to the craft. Prior to that time, the 204(b) allegedly has no bidding rights.

The Union presents three reasons why 204(b) employees do not become unassigned regulars when their old positions have been filled through the bidding process. First, they allegedly cannot be considered excess to the unit while holding a current 204(b) assignment. Second, the historical development of the parties' agreement allegedly suggests that the parties would have made it clear had they intended for 204(b)'s to have the same status as an unassigned regular. Third, current 204(b)'s

allegedly cannot be considered "unassigned regulars" because they do not have bidding rights until their 204(b) assignment is terminated.

The Union relies on one national level arbitration award issued in 1977 by Arbitrator Garrett. It allegedly stands for the proposition that 204(b) employees are not permitted to bid on vacancies. The Union concludes that 204(b)'s are not unassigned regulars and, therefore, cannot be treated as such. Because the Garrett Award was based partly on an absence of past practice allowing such assignments, the Union contrasts it with awards by Arbitrator Mittenthal that did grant 204(b) employees certain other rights based on a showing of past practice. The Mittenthal decision allegedly hinged on evidence of past practice, and such evidence allegedly is missing from the dispute before the present arbitrator, in the opinion of the Union.

A regional decision submitted by the Employer upheld management's right to assign a 204(b) to a residual vacancy, provided that the 204(b) position was first terminated. This was the McAllister decision. The Union argues that the McAllister award actually supports the Union's position that a "current" 204(b) employee may not be assigned to a residual vacancy. According to the Union, the present case before the arbitrator is distinguishable because the 204(b) employee in question was not terminated prior to being assigned to the residual vacancy.

The Union argues, secondarily, that assigning a residual vacancy to a 204(b) employee violates the EL-311 Handbook. In the opinion of the Union, Section 522 of the EL 311 Handbook gives priority to qualified part-time flexible employees in fulfilling residual vacancies. The Union relies on a 1990 arbitration award from this arbitrator in support of its position. The Union argues that potential "excessing" problems created by



promoting part-time flexible employees can be avoided merely by terminating the 204(b) assignment before assigning the employee to the vacancy. It is the position of the Union that the prospect of one employee simultaneously holding two positions indefinitely is a far worse problem than that of potential excessing because it has no practical solution.

As the third prong of its argument, the Union maintains that the Employer cannot successfully defend against the grievance in this case because it has not met its burden of showing a past practice of assigning current 204(b) employees to residual vacancies. The Union asserts that its withdrawal of a 1987 grievance on this subject does not prejudice its position in this case because it expressly conditioned its withdrawal on future cases not being prejudiced by its action. If the Union had acquiesced in the Step 4 decision in the earlier case, it would have joined with the Employer in issuing a joint Decision Letter, according to the testimony of Mr. Young. But it failed to do so.

Moreover, the Union argues that testimony of Mr. Charles Baker based on his experience as an APWU official in California does not meet the Employer's burden in this matter, according to the Union. It is the position of the Union that Mr. Baker's testimony (that he consistently advised managers and employees that 204(b) employees could be assigned to residual vacancies) should be given virtually no weight, considering his position, his limited knowledge of practices outside his union and geographical area, and the testimony of Mr. Young as an official of the NALC. It is the position of the Union that testimony from Mr. Young directly rebutted that of Mr. Baker.

Finally, the Union argues that the recent addition to the APWU collective bargaining agreement of a contractual provision consistent with the position of the NALC in this case is not dispositive. What the arbitrator needs, according to the Union, is direct

evidence of the contractual intent of the parties. The Union concludes that the Employer failed to show a national practice of assigning 204(b) employees to residual vacancies and that it should prevail in this dispute.

B. The Employer

It is the Employer's position that a contractual provision cited by the Union only limits the right of a 204(b) employee to bid and that such contractual authority does not limit the Employer's right to assign a 204(b) employee to a residual vacancy. Because the 204(b) employee in this case, in fact, did not bid for the open position, no violation occurred when the Employer subsequently "assigned" the position to him, according to the Employer. The Employer argues that the regional award by Arbitrator McAllister supports management's position because it distinguished between bidding rights of employees and the right of management to make job assignments. Specifically, the Employer finds the emphasis on management rights to make employee assignments persuasive as it applies to the present dispute.

The Employer argues that the purpose of the limitation on bidding rights of 204(b) employees was to protect the right of other employees to bid on desirable positions. Because a residual vacancy is the least valuable route, the purpose no longer applies, according to the Employer. The Employer argues that an arbitrator has no authority to extend the bidding principle to prevent management from exercising such a right. The Union allegedly did not challenge the Employer's statement of its position in 1987 when

it withdrew its grievance, and the Employer concludes that the action of the Union tacitly approved the position now taken by the Employer in this case.

The Employer further argues that, of contractual rights addressed in the parties' agreement, only "bidding" on vacancies is clearly defined. Otherwise, a 204(b) employee allegedly retains all contractual rights associated with being a member of the craft. The Employer states that it is reasonable to assume the "assignment" right remained intact.

The Employer also bases a part of its position on the difference in meaning between "bid" and "apply" in Article 41.1.D, a provision which allegedly allows all city letter carriers to "bid or apply" for certain positions. The Employer argues that this position is an exception to the ability of a 204(b) employee to bid on vacancies. If "bid" has a meaning distinct from "apply" in this provision, then the parties allegedly were aware that a prohibition on bidding did not include a prohibition on assignment.

The Employer offers a 1987 Memorandum of Understanding as evidence that the Union is attempting in this case to obtain a conversion of part-time flexible employees to full-time status in four months rather than six months. In the opinion of the Employer, the Union is attempting to circumvent the requirement of the Memorandum of Understanding.

It is the belief of the Employer that the Union's use of a settlement involving mail handlers is inapplicable in this dispute. Other factors allegedly were present in the mail handlers' settlement, namely, a concerted effort to remove a large number of pending arbitration cases in a short time. This and other considerations given by the Mailhandlers' Union allegedly provided the context for the settlement and now make it inappropriate for the NALC to use the settlement agreement in support of its position,

according to the Employer. The Employer also rejects any suggestion that the APWU labor contract has any bearing on the present matter. It is the contention of the Employer that any allegedly relevant contractual provision from the APWU craft resulted from "give and take" between the Employer and the APWU. The Employer maintains that the NALC may not now lay claim to the benefit of any bargain between the Employer and the other union.

The Employer also asserts that a practical construction of the parties' agreement supports the position of management. It is the belief of the Employer that giving approval to the Union's position in this case will lead to inefficiency when a part-time flexible employee is converted to full-time status and a 204(b) employee becomes excess. The Employer urges retention of its right to make a managerial decision consistent with its position in this case.

## VI. ANALYSIS

Whether in arbitration or a court of law, the touchstone of a decision-maker is implementing the contractual intent of the parties. The parties' language in their collective bargaining agreement is the best evidence of their contractual intent. (*See, e.g. Ohio Chemical and Surgical Equipment Co.*, 49 LA 377 (1967).) As the highly respected codification of the common law states, "the primary search is for a common meaning of the parties, not a meaning imposed on them by the law." (*See*, Sec. 201, comment c, 84

(1981).) Moreover, where parties in a negotiation are represented by counsel and experienced negotiators, respect for precise language used in an agreement only increases. As one court observed, “we cannot believe that the difference in language in the two sections of the contract was inadvertent, particularly in view of the extended negotiations of the parties who were represented by lawyers presumably skilled in this field of the law and who observed great care in drafting and redrafting various provisions of the contract.” (See Gulf Oil Corporation, 282 F.2d 401 (6<sup>th</sup> Cir. 1960).)

In particular, the meaning of the word “bid” in the parties’ agreement must be explored. It is a word with a commonly understood meaning in the world of labor-management relations. (See Robert’s Dictionary of Industrial Relations 78 (1994).) “Bid” has a special meaning in the context of Postal Service employment that would not necessarily be understood by “outsiders.” Both its meaning and context are significant in this case. At issue is whether management’s “assignment” of a current 204(b) employee to a residual vacancy violates a provision prohibiting “bidding” by carriers acting as temporary supervisors.

The contractual language under review appears in Article 41 of the parties’ agreement in a section entitled “Posting.” Article 41.1.A.2 specifically prevents carriers who are acting as temporary supervisors from bidding on vacant jobs. The provision states:

Letter carriers temporarily detailed to a supervisory position (204b) may not bid on vacant Letter Carrier Craft duty assignments while so detailed. However, nothing contained herein shall be construed to preclude such temporarily detailed employees from voluntarily terminating a 204b detail and returning to their craft position. Upon return to the craft position, such employees may exercise their right to bid on vacant letter carrier craft duty assignments. (See Joint Exhibit No. 1, p. 115, emphasis added.)

The Union argued that paragraphs within Article 41.1.A.2 had separate bargaining histories, but it is clear that the overall context is a process according to which a desirable position is made available (by posting) to other employees, rather than continuing to reserve it for a long term temporary supervisor.

To accomplish the purpose of moving workers into vacancies resulting from long term 204(b) details, both posting vacancies and preventing bidding by the reassigned incumbent are necessary. Thus, while a 204(b) employee retains rights associated with union membership in most respects, he or she must lose bidding rights in this circumstance. (*Note* the two Mittenthal arbitration awards in which rights to overtime premiums and seniority are retained by 204(b) employees. (*See* USPS Exhibit Nos. 6 and 7.) A 204(b) employee must lose bidding rights in this circumstance because, otherwise, the posting requirement would be pointless. That is, the 204(b) employee would bid for and often retain his or her own position. The contractual goal of the provision is opening up positions, not the denial of rights. The denial of rights is merely a prerequisite to achieving the desired end of the parties. This conclusion is consistent with the Garrett award on which the Union relied in this case. (*See* Union's Exhibit No. 7.)

The Union argued the contractual language providing that, on returning to the craft, a letter carrier becomes an "unassigned regular" implies a prohibition on assigning a 204(b) employee to a residual vacancy. But such an implication is not unmistakably present. The language clearly states that, "upon return to the craft the carrier will become an unassigned regular," but to read into the language a command that prohibits assigning a 204(b) to a residual vacancy is not a necessary conclusion to reach. It is far more likely that the parties failed to consider the situation presently before the arbitrator.

Perhaps the parties assumed that, in the absence of bidding rights, a 204(b) employee would never have a chance at a vacancy. Perhaps the language was intended merely to describe the status of a 204(b) who loses his or her bid assignment so that an employee in that situation would have notice of the consequences of continuing as a 204(b) employee for longer than four months. The parties agreed in Article 41.1.A.2 that, on returning to the craft, the carrier "will become" an unassigned regular. By use of the word "will" rather than the stronger "shall," did the parties mean to indicate description or prediction as contrasted with command? Despite the Union's careful examination of the history of language in the article, there is sufficient ambiguity to conclude that the intent of the parties is ambiguous. It cannot be said uncontrovertibly that there is a contradiction between the Employer's position and the verbiage of Article 41.1.A.2.

#### The Garrett Award

The Union relied heavily on language from the Fasser arbitration decision which Impartial Chairman Sylvester Garrett approved on June 30, 1977. In sustaining the union's grievance in that case, the Garrett award made clear that a 204(b) employee cannot bid on a vacancy while on a supervisory detail. Such a right would give a temporary supervisor "the best of all possible worlds," namely, holding two prime positions with all the attendant benefits of union membership and supervisory prerogatives. (See Union's Exhibit No. 7, p. 12.) Arbitrator Garrett agreed that the Employer did not meet its burden of showing a past practice of giving 204(b) employees such advantages and, accordingly, sustained the union's grievance.

Although the union used language in the Garrett award to support its case, the decision really dealt with “bidding” rights of 204(b) employees and not with managerial rights to “assign” such employees. The facts of the earlier case are clearly distinguishable from the dispute before this arbitrator. The 204(b) employee in the instant case, in fact, did not “bid” on the vacancy. Nor did the Employer assign the employee to the old, desirable position. Rather, management assigned him to an undesirable “residual vacancy,” one that had been opened for bids and for which no bids had been received.

It is the premise of the Union’s argument that is wide of the mark. First, the Union argued that, because a 204(b) employee holds a valid assignment and, therefore, is not excess to the unit, he or she does not meet the definition of an “unassigned regular.” Consequently, such an individual cannot be assigned to a residual vacancy, according to the Union’s position. The invalid assumption is that only unassigned regulars may be “assigned” to such positions. In fact, the contractual provision does not “require” assignment of unassigned regulars but merely “allows” it. While unassigned regulars have a right to bid or to be assigned to vacancies, only a 204(b) employee’s right to bid is restricted by the parties’ agreement. It does not logically follow that eligibility for assignment has been restricted as well.

The Union, then, found support for its position in grammatical structure. The Union argued that the future tense used in Article 41.1.A.2 (“will become an unassigned regular”) made clear that an employee cannot simultaneously be a 204(b) employee and also be an unassigned regular. Accordingly, the Union reasoned that assigning a 204(b) employee to a residual vacancy is inconsistent with the language of the parties’ agreement. But, again, such an analysis assumed that the assignment is an exclusive



prerogative of unassigned regulars, an assumption not incontrovertibly supported by the parties' agreement.

Finally, the Union argued that a 204(b) employee cannot be assigned as an unassigned regular employee because a 204(b) employee has no bidding rights, as does an unassigned regular. In relying on the 1977 Garrett award to support this part of its argument, the Union failed to explore the fact that the Garrett award did not discuss the status of unassigned regular employees and was not instructive with regard to this issue. The flaw is in intermingling "bidding" and "assignment" and assuming that a restriction of one necessarily restricts the other.

Despite a scholarly showing that 204(b) employees and unassigned regular employees do not have equivalent status for all purposes, the Union did not successfully establish that a 204(b) employee cannot be assigned to a residual vacancy. (The quality of the Union's presentation reminds one of a recent statement by a U.S. District Court in which the court observed that "this court would be remiss if it did not make note of the fact that the defendant's memorandum in support of its Motion for Summary Judgment is an example of the highest level of advocacy and professionalism." See Braden v. Honeywell, Inc., 8 F. Supp. 2<sup>nd</sup> 724 (1998).) Assignment of 204(b) employees to residual vacancies are nowhere in the parties' agreement restricted to unassigned regulars. No such distinction appears in the language of the parties' agreement.

The distinction made in the parties' agreement is as to "bidding." The purpose of such a distinction is to prevent a 204(b) employee from exercising seniority rights to attain "the best of both worlds." (See Case No. NB-S-6859, p. 12 (1977).) The right of management to make assignments does not give or restore the ability of a 204(b)

employee to exercise bidding rights, and such bidding rights are what the issue before the arbitrator and the disputed portion of Article 41 are all about.

As the Employer sees it, a 204(b) employee remains disadvantaged by an inability to bid on vacancies. The fear that management's interpretation of the parties' agreement will give a 204(b) employee too much flexibility is speculative at best. The situation is not controllable by a 204(b) employee but, rather, is dependent on a managerial decision. The managerial decision, in turn, is dependent on the existence of a residual vacancy. The residual vacancy, in turn, is dependent on a lack of bids. Moreover, the entire situation is dependent on a 204(b) employee's detail extending beyond a four months period of time. Even if these circumstances were to occur, the posting and bidding cycle would have had the desired effect of making the original vacancy, and perhaps others, available to other carriers. Then, if a 204(b) employee remains in a supervisory position for longer than another four months, the position would be posted and bid again.

#### Promoting Part-time Flexible Employees

It must be remembered that what the Employer did in this case was to place an employee in an undesirable route that already had been bid as required by the parties' agreement and that no one wanted the route. It is at this juncture that the Union sought the promotion of a part-time flexible employee. The Employer sought to exercise discretion in assigning such an undesirable route to a 204(b) employee.

Article 41 of the parties' agreement does not address the promotion of part-time flexible employees to residual vacancies. The Union argued that the Employer's position

contradicts language in the EL-311 Handbook, which states a preference for promoting part-time flexible employees over certain other appointments in filling full-time vacancies. As the parties know, however, such a preference is not absolute. (See Union's Exhibit Nos. 13 and 15.)

The EL-311 Personnel Handbook provides that placement of a part-time flexible employee into certain full-time vacancies normally would occur before a "promotion, reinstatement, reassignment, transfer, or appointment." Is it significant that the list does not include "assignment" but does include "reassignment?" Interpretive principles used in contract interpretation teach that different words are intended to have different meanings, and it is logical to assume that the promotion of part-time flexible employees does not necessarily have priority over the assignment at issue in this particular case. It is to be presumed that these rules are work rules which have been expertly drafted for a particular transaction, and the Union has had an opportunity to object to their implementation.

The Union relied on a 1990 arbitration decision in support of its position with regard to promoting part-time flexible employees. (See Union's Exhibit No. 16.) The national level decision in the 1990 award concluded that it is the norm in this industry to fill full-time vacancies from the ranks of part-time flexible employees. But the 1990 award specifically stated that the decision did not preclude the Employer from action other than placing part-time flexible employees into the vacancy. In other words, the preference for promotion of part-time flexible employees is not absolute and leaves some room for management to exercise reasonable discretion. The EL-311 Handbook failed to be dispositive in this particular case.

The Union found support for its position in a 1985 Mittenthal award. (See Union's Exhibit No. 14.) In that decision, Arbitrator Mittenthal stated that, where a party asserts a past practice inconsistent with express language in the collective bargaining agreement, the party must show uniformity and wide acceptance of such a practice. This position would only apply if the employer conceded that the practice at issue was inconsistent with express language in the agreement. It does not do so here. Rather, the Employer differs with the Union's interpretation of the express language and cites practice in support of its own interpretation.

In this case, the evidence of past practice is inconclusive. It is unnecessary to rely on past practice evidence for a determination in the case. The Employer's central argument is based on a distinction between "bidding" and "assignment" and whether the disputed provision in the parties' agreement has any bearing on its ability to make the assignment in this case. On a tertiary level, it should be noted that an arbitrator elevates past practice over express contractual language at his or her peril. A number of courts now begin to agree with the Fifth Circuit position that "arbitral actions contrary to express contractual provisions will not be respected." (See Delta Queen Steamboat Co. v. District Two Marine Engineers Beneficial Association, 889 F.2d 599, 604 (5<sup>th</sup> Cir. 1989).)

The Union also offered as persuasive evidence a regional arbitration award. (See USPS Exhibit No. 5.) The parties, however, have designed their grievance procedure system in such a way that national arbitration decisions are binding on regional arbitrators, but regional awards are neither binding nor conclusive with regard to issues presented at the national level. While facts in the regional case seem pertinent, it is

unclear whether the 204(b) employee in that particular dispute was still detailed as a 204(b) employee at the time of the assignment. If the parties intend the language of their agreement to have the meaning for which the Union argued, the labor contract must be clear in its statement to that effect. It is an arbitrator's role to serve as the parties' "official reader" of their contract, not to make a new agreement for them.