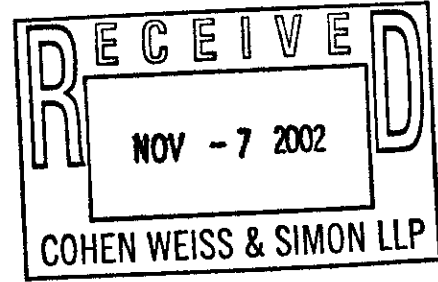


C-23742

National Arbitration Panel



In the Matter of Arbitration)
between)
United States Postal Service)
and)
American Postal Workers Union)
and)
National Association of Letter)
Carriers - Intervenor)

Case No.
E90C-4E-C 95076238

Before: Shyam Das

Appearances:

For the Postal Service: John W. Dockins, Esquire

For the APWU: Darryl J. Anderson, Esquire

For the NALC: Keith E. Secular, Esquire

Place of Hearing: Washington, D.C.

Dates of Hearing: October 16, 2001
January 23, 2002

Date of Award: October 31, 2002

Relevant Contract Provisions: Articles 19, 21.4, and 37;
ELM Section 546

Contract Year: 1994-1998

Type of Grievance: Contract Interpretation

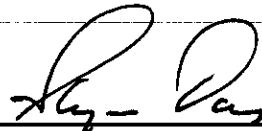


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Award Summary

As set forth in the above Findings, the Postal Service was not required to post the rehabilitation assignment at issue under Article 37 of the National Agreement, and the creation of that assignment pursuant to provisions of Section 546 of the ELM did not impair the seniority rights of PTF clerks.



Shyam Das, Arbitrator

This case arises under the 1994-1998 National Agreement between the American Postal Workers Union (APWU) and the Postal Service. The National Association of Letter Carriers (NALC) intervened and supports the position of the Postal Service in this case.

The Federal Employees' Compensation Act (FECA) and regulations issued thereunder impose certain obligations on the Postal Service to provide suitable work to employees who partially recover from a job-related injury. Article 21.4 of the APWU National Agreement provides:

Section 4. Injury Compensation

Employees covered by this Agreement shall be covered by subchapter I of Chapter 81 of Title 5 [FECA], and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.

The NALC National Agreement includes a similar provision. Section 546 of the Employee and Labor Relations Manual (ELM) includes provisions relating to Reemployment or Reassignment of Employees Injured on Duty.

In May 1995, a partially recovered letter carrier who had been injured on the job was reassigned to the Clerk Craft as a part-time flexible (PTF) employee and assigned to a "General Clerk Modified" position at Cactus Station in Phoenix, Arizona.

This was a permanent reassignment made pursuant to a Form 50. The reassigned employee was assigned to work a fixed work week of 40 hours, beginning at 6:30 a.m. and ending at 3:00 p.m., with Sundays and Mondays off. Management created this assignment as a rehabilitation position for the injured letter carrier as an application of provisions in ELM Section 546. It appears from the record that the General Clerk position at this facility (and other similar facilities in Phoenix) previously had been abolished.

The APWU filed a grievance in which it asserted that management violated the collective bargaining agreement in creating a new General Clerk position for the PTF rehabilitation employee. The Union asserted a violation of Articles 19, 37 and 12 of the National Agreement.

The Postal Service's Step 4 denial of this grievance states:

The issue in this grievance is whether the duties of a rehabilitation position, created for an employee with work restrictions due to an on-the-job injury, must be posted for bid to all clerk craft employees.

The Union contends that the reassignment of an injured employee to the clerk craft as a PTF with a fixed schedule violates the National Agreement unless the assignment is to a residual vacancy.

...[I]t is our position that the Postal Service has legal responsibilities to employees with job related injuries under 5

USC 8151 and the Office of Personnel Management. Article 21.4 provides for the promulgation of regulations to comply with those responsibilities. Those regulations are incorporated into the Employee & Labor Relations Manual 540. The assignment in this case was made in accordance with those regulations.

The rehabilitation assignment is uniquely created as required in ELM 546.222. As such, it does not constitute a newly established position which must be posted for bid under Article 37.3.A.

The assignment is an incumbent only assignment created to meet the restrictions of the employee being placed. Further, if for any reason the employee vacates the position, it will not be posted for bid.

Furthermore, past practice, negotiation history, case law, handbooks and manuals and a reading of the contract as a whole supports management's position in this case. National Arbitrator Aaron has already ruled in case number H1C-5D-C 2128 that it is too late in the day for the Union to challenge the proposition that FECA regulations can augment contractual rights.

The provisions of Article 37 cited by the APWU include the following:

ARTICLE 37

CLERK CRAFT

Section 1. Definitions

* * *

B. Duty Assignment. A set of duties and responsibilities within recognized positions regularly scheduled during specific hours of duty.

* * *

Section 2. Seniority

* * *

D. Application of Seniority.

1. Seniority for full-time employees and part-time regular employees for preferred duty assignments and other purposes shall be applied in accordance with the National Agreement. This seniority determines the relative standing among full-time employees and part-time regular employees. It begins on the date of entry into the Clerk Craft in an installation and continues to accrue as long as service is uninterrupted in the Clerk Craft and in the same installation, except as otherwise specifically provided for.

* * *

Section 3. Posting, Bidding, and Application

A. Newly established and vacant Clerk Craft duty assignments shall be posted as follows:

1. All newly established Clerk Craft duty assignments shall be posted to craft employees eligible to bid within 28 days....

Relevant provisions of ELM Section 546 include the following:¹

546.14

Disability Partially Overcome

546.141 Obligation

When an employee has partially overcome the injury or disability, the USPS has the following obligation:

- a. Current Employees. When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance (see 546.611). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:

¹ Issue 12 of the ELM was in effect when this grievance arose in 1995. It was replaced by Issue 13 in 1998. To the extent relevant provisions of Issue 13 differ from those in Issue 12, the parties seem to agree that the provisions in Issue 13 reflect the manner in which the corresponding provisions in Issue 12 actually were applied in practice in 1995. The provisions of Section 546 quoted in this decision are taken from Issue 13. The APWU has noted that it has challenged Issue 13 under the procedures of Article 19, but that challenge is not involved in this case.

- (1) To the extent that there is adequate work available within the employee's work limitation tolerances, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.
- (2) If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned within the employee's regular hours of duty, other work may be assigned within that facility.
- (3) If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts must be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.
- (4) An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort must be made to assign the employee to work within the

employee's craft within the employee's regular schedule and as near as possible to the regular work facility to which the employee is normally assigned.

* * *

546.142

Rights and Benefits Upon Partial Recovery

- a. Seniority. Former employees who are reemployed into bargaining unit positions or current career employees who are reassigned into such positions are credited with seniority in accordance with the collective bargaining agreements covering the position to which they are assigned.

* * *

546.2

Collective Bargaining Agreements

546.21 Compliance

Reemployment or reassignment under this section must be in compliance with applicable collective bargaining agreements. Individuals so reemployed or reassigned must receive all appropriate rights and protection under the newly applicable collective bargaining agreement.

546.22 Contractual Considerations

546.221 Scope

Collective bargaining agreement provisions for filling job vacancies and giving promotions and provisions relating to retreat rights due to reassignment must be

complied with before an offer of reemployment or reassignment is made to a current or former postal employee on the OWCP rolls for more than 1 year.

546.222 Reemployment or Reassignment

A partially recovered current or former employee reassigned or reemployed to a different craft to provide appropriate work must be assigned to accommodate the employee's job-related medical restrictions. Such assignment may be to a residual vacancy or to a position uniquely created to fit those restrictions; however, such assignment may not impair seniority rights of PTF employees....

(Emphasis added.)

APWU POSITION

The APWU stresses that all of the duties listed in the "General Clerk Modified" position at issue also are found in the standard position description of a "General Clerk", except the delivery of Express Mail, which is a duty regularly performed by general clerks and other employees, as needed. Moreover, when the APWU Steward who filed this grievance asked the bid clerk in Phoenix why this position was designated "Modified", she was told that was because the rehabilitated letter carrier would not have to pass a typing test.

The APWU contends that the Postal Service in this case established a new full-time duty assignment, as defined in Article 37.1.B of the National Agreement, which it was required

to post for bid under Article 37.3.A.1. In violation of Article 37, the APWU charges, the rehabilitated letter carrier was reassigned as a PTF clerk to a full-time regular duty assignment, without regard to the fact that she had no seniority in the Clerk Craft. This reassignment occurred when there were clerks with over 20 years of seniority waiting to bid on a day job with the hours and days off of this position, as well as PTF clerks waiting to be converted to full-time regulars.

The APWU further contends that the Postal Service violated Article 19 and ELM Section 546 by failing to post this assignment. Section 546 does not -- as the Postal Service argues -- authorize the Employer to ignore the seniority and job posting requirements of the National Agreement, but rather requires compliance with the National Agreement.

The APWU insists that the Employer's obligation to "make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance", set forth in ELM Section 546.141 cannot justify violation of Article 37. First, that provision is applicable to temporary "limited duty" assignments, not to permanent reassignment following partial recovery, as was the case here. Second, the vague reference to making "every effort" in Section 546.141 cannot overcome the requirement clearly and repeatedly expressed elsewhere in Section 546 that applicable collective bargaining agreement provisions must be followed.

The requirement in Section 546.142a that employees reassigned into the Clerk Craft must be credited with seniority in accordance with Article 37 of the APWU National Agreement also means that the reassigned letter carrier's status must be determined by the employee's relative seniority within the unit. This employee had no seniority in the Clerk Craft, yet she was assigned to a full-time job with favorable hours and days off. Application of Article 37 also is expressly required by Sections 546.21 and 546.221.

The APWU argues that Section 546.222 cannot justify creating a unique position and then reassigning an employee into it in violation of the seniority and posting requirements of Article 37. What the Postal Service did here -- contrary to Section 546.222 -- undisputedly impaired the seniority rights of PTF clerks under Article 37. If the assignment had been posted for bid, there ultimately may have been a residual full-time regular vacancy that a PTF clerk could have exercised seniority to convert into it. The Postal Service's action in this case, the APWU urges, is analogous to the assignment of supervisors to the NALC bargaining unit as full-time regular employees, which National Arbitrator Snow held violated the seniority right of PTF letter carriers waiting to convert to full-time regular status in Case Nos. H7N-4U-C 3766 et al. (1990).

The APWU insists that the Employer's contention that the Union's interpretation of Section 546.222 would preclude the Postal Service from ever creating a unique position under that provision is demonstrably false. Jim McCarthy -- now APWU

Director of the Clerk Craft -- testified that as a Local Union official in Boston he regularly negotiated with management modification of residual clerk vacancies to make them consistent with the needs of letter carriers reassigned into those "uniquely created positions". Greg Bell -- now APWU Director of Industrial Relations -- also testified that, while he served as a Local Union official in Philadelphia, the Union did not grieve when letter carriers were placed in negotiated limited and light duty assignments that the local parties had agreed upon to be set aside for that purpose.

In Case No. H94N-4H-C 96090200 (1998), an NALC case in which the APWU intervened, National Arbitrator Snow ruled that any reassignment of a letter carrier into a clerk position under Section 546.141a must be made in accordance with the APWU's National Agreement and, in particular, must not impair the seniority rights of PTF clerks. That can be accomplished, the APWU asserts, by ad hoc agreements between the parties (like those testified to by McCarthy) or agreements made in advance (like those testified to by Bell) about how to handle such reassignments. In this case, however, the Postal Service's unilateral creation of a full-time assignment without posting that assignment for bid impaired the right of full-time regular and PTF employees in violation of the APWU National Agreement.

POSTAL SERVICE POSITION

The Postal Service maintains that the issue in this case, as stated in its Step 4 denial, is:

Whether the duties of a rehabilitation position created for an employee with work restrictions due to an on the job injury must be posted for bid to all clerk craft employees.

This issue, the Postal Service stresses, is predicated on the existence of a uniquely created rehabilitation assignment for an employee with work restrictions due to an on-the-job injury.²

The Postal Service contends that an assignment of this sort is not an Article 37 duty assignment. It only exists as a result of the need to reassign the injured employee. It is created under Article 21.4 and ELM Section 546. When the injured employee vacates the assignment, it will no longer exist.

The Postal Service stresses that under Article 3 the discretion to create (or not to create) a full-time Article 37

² The Postal Service acknowledges that the issue of whether the injured employee's reassignment actually is a uniquely created assignment or rather is a pre-existing duty assignment would be subject to review based on the particular facts of each case. That is not an interpretive issue, however. The Postal Service asserts that the APWU has acknowledged that, for purposes of deciding the interpretive issue in this case, the reassignment was a uniquely created rehabilitation assignment.

duty assignment rests exclusively with management. Similarly, management has the exclusive right to abolish or revert Article 37 duty assignments, as provided in Article 37.1.F and 37.1.G.

Creation of duty assignments is based on management's operational needs. The present assignment, in contrast, was only created because of the Postal Service's legal, contractual and regulatory obligation to reassign or reemploy an employee who is injured on the job. This assignment did not exist before the employee was injured and otherwise would not have been created by management, because no need for an Article 37 duty assignment existed.

Section 540 of the ELM was promulgated to meet the Postal Service's obligations under Article 21.4 of the National Agreement and FECA. Cross-craft rehabilitation assignments are made pursuant to Section 546.141.a, which was promulgated in 1979 pursuant to an agreement with the NALC. The record establishes that this agreement was discussed with the APWU which concurred in the change. Moreover, the APWU raised no objection to these changes under Article 19 when they were incorporated into the ELM in 1979. The Postal Service stresses that there was no claim at that time by the APWU that assignments made pursuant to the "pecking order" in Section 546.141a actually were duty assignments that had to be posted under Article 37 or otherwise violated the APWU National Agreement. It clearly is too late for the APWU to now make such a claim.

The Postal Service argues that the APWU's position leads to absurd results and would greatly impede the established injury compensation program. If, as the APWU asserts, rehabilitation assignments must be posted, it is almost certain that able-bodied clerks other than the injured employee would be awarded the bid. The injured employee would have no right to even bid on the job created for the sole purpose of reemploying the injured employee. Moreover, because management has no need for the assignment other than to reemploy the injured employee, if some other able-bodied employee were the successful bidder, the assignment would be abolished at management's discretion pursuant to Article 37.1.F. These actions, as well as other actions triggered by them in a domino-like effect, would create ongoing inefficiencies in the work place, and the injured employee would be no closer to being reemployed.

The Postal Service stresses that the APWU's current Article 37 duty assignment argument was made and rejected in a national arbitration case decided by Arbitrator Dobranski in 1998, Case No. J90C-1J-C 92056413. That case involved temporary rehabilitation assignments of rural carriers into the clerk craft, but the APWU's Article 37 argument was essentially the same.

The Postal Service further insists that creation of the rehabilitation assignment in this case did not impair PTF clerk seniority rights. Assuming, for the sake of argument, that this is an Article 37 duty assignment, PTFs cannot bid on such assignments. Moreover, in that case, the assignment would

not exist; but for the obligation to reemploy the injured employee, it would not have been created. By agreement of the parties, the Postal Service asserts, the argument that if the rehabilitation assignment was posted as an Article 37 duty assignment, that eventually would lead to a residual vacancy that might lead to conversion of a PTF clerk is not before the arbitrator. In addition, if the rehabilitation assignment was posted and filled by an able-bodied regular clerk, it surely would be abolished -- there being no need for such a duty assignment -- and that regular employee would become an unassigned regular subject to being assigned to a residual vacancy prior to consideration of converting a PTF to regular.

Finally, the Postal Service contends that testimony in the record shows that the past practice of the parties supports its position. Rehabilitation assignments have never been posted.

NALC POSITION

The NALC, as intervenor in this case, agrees with the Postal Service's position that a rehabilitation position "uniquely created" to accommodate a specific injured employee does not have to be posted for bid by able-bodied employees. As NALC Vice President Ron Brown testified, such positions have long existed in the letter carrier craft and the NALC's consistent position has been that these rehabilitation positions are created under ELM Section 540 for the express purpose of providing an assignment to a person on limited duty, and, as

such, they are not subject to the bidding provisions in the NALC National Agreement, which are not different to those in the APWU's Agreement.

The NALC points out that to the extent the APWU may be claiming that the assignment at issue is not a genuine rehabilitation assignment, that claim does not raise an interpretive issue to be resolved at national level arbitration.

The NALC also argues that the APWU's claim that failure to post this rehabilitation assignment violates the seniority rights of PTF clerks is not properly before the arbitrator. That issue, the NALC asserts, was not raised at any prior stage of the grievance. Moreover, the facts do not establish a violation of ELM Section 546.222. That provision does not generally protect seniority interests or expectations of PTFs. To show a violation of 546.222, the APWU would have to establish that a contractual seniority right of PTFs has been impaired. PTFs, however, have no right to bid on assignments. At most, they might have conversion rights to a residual vacancy at the end of the bidding cycle. If, as the Postal Service and NALC argue, Article 37 of the APWU National Agreement does not require that full-time regulars be allowed to bid on a rehabilitation assignment, there will not be any residual vacancy. If, on the other hand, the arbitrator were to find that this rehabilitation assignment should have been posted for bid, that would be sufficient to sustain the APWU's grievance without the need to consider the seniority rights of PTFs, which

raise other issues that the parties agreed are not to be decided in this case.

FINDINGS

In his 1985 decision in Case No. H1C-4K-C 17373, National Arbitrator Mittenthal pointed out:

Part 540 of the ELM was a response to the fact that the Postal Reorganization Act placed all Postal Service employees under the coverage of the Federal Employees Compensation Act (FECA). Part 540 was a means of implementing the injury compensation program set forth in FECA. It concerns employees who suffer job-related disabilities; it requires the Postal Service to make "every effort" toward placing an injured employee on "limited duty" consistent with his work limitations. Management must make that "effort" even though no "request" has been submitted by the employee and even though no "light duty assignments" have been negotiated by the parties.

(Footnote omitted.)

Even earlier, in 1983, National Arbitrator Aaron stated in Case No. H1C-5D-C 2128:

It is obviously too late in the day for the Union to challenge the proposition the FECA regulations can augment or supplement reemployed persons' contractual rights. The language of Article 21, Section 4 of the 1981-1984 Agreement, previously quoted, makes clear that the rights of such persons

can be augmented or supplemented by federal regulations, with which the Postal Service must comply. If the Union objects to the changes in the relevant revisions introduced by the Postal Service in purported compliance with government regulations, it may challenge them in accordance with the procedures set forth in Article 19 of the Agreement, previously quoted. This it failed to do....

In this case, the Postal Service created a full-time assignment with fixed hours and days off consisting of various clerk duties that were within the medical restrictions of the injured letter carrier. This rehabilitation assignment was not a residual vacancy in the Clerk Craft, but was a "position uniquely created to fit those restrictions", as provided for in ELM Section 546.222.

Section 546.222 specifically recognizes the reassignment of a partially recovered employee to a different craft to provide appropriate work and authorizes the Postal Service to establish a "uniquely created" position for that purpose. As best I can determine, the issue in this case essentially is (1) whether the assignment in question must be posted for bid under Article 37 of the APWU National Agreement -- given the requirement in ELM Section 546.21 that reassignment under Section 546 must be in compliance with applicable collective bargaining agreements -- and/or (2) whether that assignment impaired seniority rights of PTF clerks contrary to Section 546.222.

The General Clerk Modified assignment in question consists of a number of clerk duties -- a subset of duties included in the standard position description of a General Clerk. That does not detract from the fact that it was uniquely created as a rehabilitation assignment. As the Postal Service stresses, this assignment would not have existed, but for the obligation to find work for the injured employee. In a particular case, the APWU may factually challenge whether a designated rehabilitation assignment actually is a uniquely created position, under Section 546.222, but that is not the issue in this case.³

Article 37.3.A.1.a(1) requires management to post "[n]ewly established full-time duty assignments". Article 37.1.B defines "Duty Assignment" as: "A set of duties and responsibilities within recognized positions regularly scheduled during specific hours of duty." Under Article 3, the Postal Service has the exclusive right -- consistent with other provisions of the Agreement and applicable laws and regulations:

- C. To maintain the efficiency of the operations entrusted to it;

³ At one point in the hearing (Tr. p. 202) the APWU's counsel asserted that General Clerk Modified jobs "are nothing but general clerk duties that have been reverted and set aside so that they [the Postal Service] could diminish their worker's compensation liability". This allegation is not established in the record in this case, and, in any event, raises an issue of fact. The interpretive issue in this case is predicated on the Postal Service having uniquely created the position in issue as a rehabilitation assignment.

- D. To determine the methods, means, and personnel by which such operations are to be conducted;

These management rights encompass the right to establish new duty assignments to meet its operational needs.

In this case, the rehabilitation assignment in question was not created to meet the operational needs of the Postal Service, but to fit the medical restrictions of the injured employee with minimum disruptive impact on the employee. By definition, it would make no sense to treat such a uniquely created assignment as a duty assignment that must be posted for bid. Requiring the assignment to be posted would defeat the sole purpose for establishing the assignment, because the injured employee -- who has no seniority in the Clerk Craft -- could not bid on that assignment. To paraphrase Arbitrator Aaron, it is too late in the day for the APWU to challenge the proposition that the Postal Service may reassign an injured employee to a uniquely created position in another craft to provide appropriate work to that employee, which essentially is what the APWU's Article 37 position in this case does.

The APWU also has not established in this case that the reassignment in question impaired seniority rights of PTF employees in contravention of ELM Section 546.222.⁴ PTF clerks

⁴ Despite the various advocates' efforts to dance around this issue, I believe it needs to be addressed in the context of this grievance. I have attempted to say no more than necessary to resolve this case.

have no seniority right to be assigned to a uniquely created rehabilitation position. Certainly if, as already determined, such a position is not subject to Article 37's posting provisions, it would be topsy turvy to conclude that PTFs have a seniority right to that position when full-time regulars do not. Also, because Article 37's posting provisions do not apply, PTFs were not deprived of any opportunity to convert to regular full-time status as a result of a residual vacancy occurring at the end of the bidding cycle.⁵

In this case, the injured letter carrier was reassigned as a PTF clerk -- at the bottom of the PTF seniority roll -- not as a full-time regular. This case is not analogous to Arbitrator Snow's 1990 decision in Case No. H7N-4U-C 3766 et al., in which he concluded that "the reassignment of a supervisor who has not retained his or her seniority to full-time regular status violates the seniority right of part-time flexible employees waiting to convert." Moreover, this case does not involve assignment of an injured letter carrier to a residual clerk vacancy. The issue left open in National Arbitrator Snow's 1998 decision in Case No. H94N-4H-C 96090200 is not raised and need not be decided here.

⁵ If Article 37's bidding procedures were applicable -- and they are not -- management obviously would not have posted, or would have abolished, this assignment, because it had no need for it if it could not be used as a rehabilitation assignment. Whether a PTF has a priority right to fill a residual full-time vacancy that could otherwise accommodate an injured worker under Section 546 is not an issue in this case, and no opinion is expressed on that issue.

In its post-hearing brief, the APWU argues that:

The impairment of seniority rights of part-time flexible employees occurs because of the aggregation of 40 hours per week of clerk hours into a position taken out of the normal operation of the seniority system. It is not merely the right to bid for the particular position that has been "uniquely created" that is at stake, it is the possibility of having other regular assignments created on tour 2 that might permit conversion of a part-time flexible employee into a regular assignment, and thereby advance that possibility for every other senior part-time flexible clerk.

If I understand the logic of this argument, the APWU basically is claiming that the seniority rights of PTF clerks are impaired whenever Clerk Craft duties are packaged into a rehabilitation assignment for an employee in a different craft, because some or all of that work otherwise ultimately might be included in a newly created full-time clerk position at some indefinite time in the future, and that might result in a conversion opportunity for a PTF. In making this argument, the APWU in effect is challenging the entire notion of assigning injured employees in one craft to a uniquely created rehabilitation assignment in another craft -- at least whenever there are any PTF employees in the craft in which the assignment is created. If such an attenuated proposition was the intent behind Section 546.222, which in context seems improbable, presumably it simply would state something to the effect that injured employees may only be reassigned to a uniquely created rehabilitation position if there are no PTF employees in the facility. It does not do

that, and I am not otherwise persuaded that the impact of the rehabilitation assignment cited by the APWU constitutes impairment of seniority rights of PTF clerks.

For the reasons set forth above, I conclude that the Postal Service was not required to post the rehabilitation assignment at issue under Article 37 and that the creation of that assignment did not impair the seniority rights of PTF clerks.

AWARD

As set forth in the above Findings, the Postal Service was not required to post the rehabilitation assignment at issue under Article 37 of the National Agreement, and the creation of that assignment pursuant to provisions of Section 546 of the ELM did not impair the seniority rights of PTF clerks.



Shyam Das, Arbitrator