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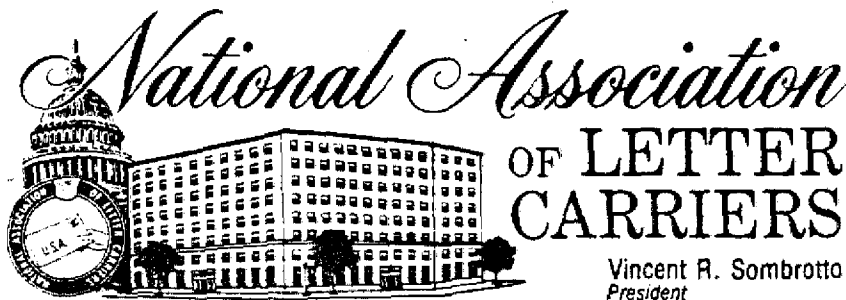
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Telephone: (202) 393-4695

January 14, 1987

Mr. Johnny W. Bourlon  
President - Branch 1477  
12550 66th Street North  
Largo, Florida 33543-6973

Dear Brother Bourlon:

I have your letter of December 23, 1986 about letter carriers who are unable to return to duty as letter carriers because of partial disabilities resulting from on-the-job injuries.

As background, please note that the FECA at 5 USC 8106(c) provides that a partially disabled employee who refuses to seek "suitable work" or refuses or neglects to work after such work is offered, procured, or secured is not entitled to compensation.

No distinction is made in 5 USC 8106(c) between employees and former employees and OWCP has long maintained that it is applicable to both categories. Further, OWCP maintains that a partially disabled employee must apply to his or her employing establishment for suitable work (this is reflected in OWCP form letters sent to employees at such time as the medical evidence shows that the employees are no longer disabled for all work).

OWCP does not specify the type of work an employing establishment must offer a partially disabled employee — the sole requirement being that the work is suitable to the employee's injury-related disability. In essence, any work can be offered the partially disabled employee by the employing establishment as long as it is suitable to the employee's disability.

The Postal Service has recognized its responsibilities in making suitable work available to partially disabled employees in the ELM at 546.141 — which states in part:

"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 tolerances (see 546.32).

Johnny W. Bourlon  
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In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee...."

Subparagraphs (a)-(d) of 546.141 provide a descending order of priority of work assignments starting with work 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. Work cannot be assigned outside of the employee's craft unless there is no work assignments available within the employee's craft.

Paragraph 546.141 contains no reference to the length of time an employee may be assigned limited duty — nor does it provide for permanent transfer from one craft to another. Consequently, it is the NALC's position that assignment to limited duty can be indefinite (thus preserving the employee's status as a carrier), but that a letter carrier cannot be permanently transferred to another craft without the carrier's approval.

In the event an attempt is made to force a letter carrier to accept a permanent transfer to another craft under penalty of termination of service, then the letter carrier should consider accepting the transfer under protest. A grievance should be filed in such situations.

I hope you find this information helpful.


With best wishes, I am

Sincerely yours,

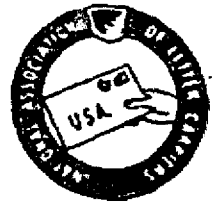
Vincent R. Sombrotto  
President

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Johnny W. Bourlon  
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bcc: Frank Conners, Executive Vice President  
Lawrence G. Hutchins, Vice President   
Wayne E. White, National Business Agent  
Dave Noble, Assistant to the President for Arbitration  
Herbert A. Doyle, Jr., Asst to the President for Compensation

Branch No. 1477  
 WEST COAST FLORIDA LETTER CARRIERS  
 National Association of Letter Carriers



"THE ONLY GOOD  
 MEMBER IS AN  
 ACTIVE MEMBER"

JOHNNY W. BOURLON, President  
 Phone (813) 531-1477

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 2nd THURSDAY EACH  
 MONTH - 7:30 P.M.

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December 23, 1986

Vincent R. Sombrotto  
 President, NALC  
 100 Indiana Avenue, N.W.  
 Washington, D.C. 20001

Dear President Sombrotto:

Good morning. On several occasions at gatherings of NALC Presidents and members I have heard you comment that Letter Carriers who are injured on duty and are receiving Workers Compensation due to the injury and are unable to perform the duties of their position's may not be transferred to the clerks craft and be required to work a "Modified Clerks Position". If this is true and is still your position I respectfully request that you provide me with information on this matter since I have recently learned that I have a Carrier who is going to be faced with this problem in a few days.

I have read the "Joint Rehab" booklet and can not find where it covers injured employees who remain on the Postal Service Rolls but can not perform all, or part of their duties. If the injured employee was on the OWCP Rolls I could perhaps understand them returning the person to duty.

Any information that you may be able to provide will be greatly appreciated.

Waiting your reply, I am

Fraternally yours,

*Johnny W. Bourlon*  
 Johnny W. Bourlon  
 President  
 Branch 1477 NALC, AFL/CIO

CC: Leo Pellerin  
 W. White, NBA

