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MAR 3 1995

POSTAL SERVICE ADMINISTRATION UNIT
WASHINGTON, D.C.

Mr. Vincent R. Sombrotto
President
National Association of Letter
Carriers, AFL-CIO
100 Indiana Avenue NW
Washington DC 20001-2197

Re: E90N-4E-C 94037609
CLASS ACTION
SEATTLE WA 98109-9998

Dear Mr. Sombrotto:


On several occasions, most recently February 27, 1995, I met with your representative, William Yates, to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

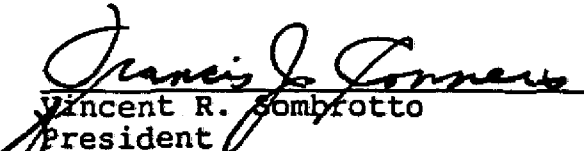
Without prejudice to either party's position concerning any procedural issues that are raised in this case, we agree to the following in order to clarify what appear to be conflicting regulations. The procedures of M-41 261.21 and 431 are applicable. The regulations in POM 644.2 provide an exception for permanently assigned keys which is not applicable to this situation.

Please sign and return the enclosed copy of this decision as your acknowledgment to settle this case in its entirety.

Time limits were extended by mutual consent.

Sincerely,


Melissa J. Doniger
Grievance and Arbitration
Labor Relations


Vincent R. Sombrotto
President
National Association of Letter
Carriers, AFL-CIO

Date: 3/6/95



National Association of Letter Carriers (AFL-CIO)

NBA'S GRIEVANCE CASE COMMENTS

ATTACH TO GRIEVANCE CASE SUMMARY (GRIEV-3)

M-01205

5303

DATE: November 21, 1994

TO: NATIONAL OFFICER

FROM: NATIONAL BUSINESS AGENT

Contract Administration Unit
100 Indiana Avenue NW
Washington D.C. 20001

Jim Edgemon
PO Box 84386
Vancouver WA 98684-0386

REGIONAL GRIEVANCE NO.	BRANCH	CITY	STATE
E90N-4E-C-94037609	79	Seattle	WA

COMMENTS: Indicate whether you believe this case involves an interpretive issue under the national agreement (or some supplement thereto of general application).

A Step 1 settlement reached on 12/28/93 allowed for carriers to take arrow keys home rather than checking them in on a daily basis as an ~~accountable~~ accountable item. The local Union, based on consultation with the NBA, appealed this case to Step 3 due to the language of the M-39 and M-41 Handbooks. (See M-41 261.21) We believe this issue to be interpretive since the language of POM 644 and 645 conflict with the M-41 provision. May letter carriers take arrow keys home when theft might occur?

MANAGEMENT'S POSITION AT STEP 3: Also indicate whether management believes this case involves an interpretive issue under the national agreement (or some supplement thereto of general application).

No interpretive issue.

ARBITRATION RECOMMENDATION: YES NO

STATE REASONS:

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

ATTACH TO GRIEVANCE CASE SUMMARY (GRIEV-3)





National Association of Letter Carriers (AFL-CIO)

APPEAL TO STEP 4

M-01205

DATE **November 21, 1994**

TO: ASSISTANT POSTMASTER GENERAL
LABOR RELATIONS DEPT.
UNITED STATES POSTAL SERVICE
WASHINGTON, D.C. 20260-4100

FROM: NATIONAL BUSINESS AGENT

Jim Edgemon
PO Box 84386
Vancouver WA 98684-0386

CARRIER	REGIONAL NO.	GRIEVANT (OR CLASS)	POST OFFICE
	E90E-4E-C-94037609	Class Action	Seattle WA

DEAR SIR: SINCE NALC USPS BELIEVE(S) THIS CASE INVOLVES AN INTERPRETIVE ISSUE UNDER THE NATIONAL AGREEMENT (OR SOME SUPPLEMENT THERETO OF GENERAL APPLICATION), I AM APPEALING THE ABOVE-CAPTIONED CASE TO STEP 4 OF THE GRIEVANCE PROCEDURE, PURSUANT TO ARTICLE XV, SECTION 2. OF THE NATIONAL AGREEMENT.

DATE STEP 3 DENIAL RECEIVED: **November 14, 1994**

STEP 3 DECISION RENDERED BY: **Paulette Otto, Labor Relations Specialist**

VIOLATION INCLUDING BUT NOT LIMITED TO:
Article 3
Article 5
Article 15
Article 19

CORRECTIVE ACTION REQUESTED:

The Union requests that the provisions of the National Agreement and Handbooks and Manuals be adhered to. The Union further requests that management and craft continue at the local level to address the issue of accountability of arrow keys for main office carriers in a contractually sound manner.

DESIGNATED NALC REPRESENTATIVE AT STEP 4: **Contract Administration Unit**

Enclosures:

- 1. Standard grievance form**
- 2. Step 2 decision**
- 3. Additions/corrections letter**
- 4. Step 3 decision**

SINCERELY YOURS,


NATIONAL BUSINESS AGENT

CC: REGIONAL DIRECTOR FOR ELR
NATIONAL OFFICER, NALC
BRANCH PRESIDENT, NALC



Jim Williams, NBA
NALC, AFL-CIO
P. O. Box 84386
Vancouver, WA 98684-0386

Hand Delivered
E90N 42-C 94037009
Decision: DENIED
C/A or Name: _____
City: Seattle Co
Union ID No: 34415935E

Dear Mr. Williams:

You and I discussed the above-captioned Step 3 grievance on 11/14/94.

The question(s) at issue in this grievance (is/are):

Mandate to secure Arrow keys

After a full review of the information, contentions, and arguments submitted by the Step 2 representative(s), I have decided to DENY the grievance for the following reason(s):

It is the position of the Postal Service that the POM, 644.2 is controlling in this case.

In my opinion, the grievance does not involve an interpretive issue under the National Agreement of some supplement thereto which may be of general application. If you agree that no interpretive issue is involved, you may appeal this decision directly to arbitration at the Area level within twenty-one (21) days after you receive it.

Paulette Otto
Labor Relations Specialist
Western Area

PAO:aco

cc: Manager, Human Resources, Seattle District
Sr. Labor Relations Specialist, Seattle District
Plant Manager/Postmaster, Seattle
Western Area Labor Relations

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JIM EDGEMON, NBA
National Association Letter Carriers



P-568 095 328

GRIEVANCE APPEAL TO 3

DATE: 1/5/94

TO: REGIONAL DIRECTOR, EMPLOYEE AND LABOR RELATIONS UNITED STATES POSTAL SERVICE

FROM: BRANCH PRESIDENT

M-01205

DIRECTOR, EALR
850 CHERRY AVE
SAN BRUNO, CA 94089

Jay Gaynor
Branch 78, NALC
210 Queen Anne Avenue North
Seattle, WA 98109

BRANCH GR.#	GRIEVANT'S NAME	GRIEVANT'S S.S.#	JOB CLASSIFICATION	STATION
95-119-093E	Class		Letter Carrier	Main Office

PURSUANT TO ARTICLE XV, SECTION 2 OF THE NATIONAL AGREEMENT, WE HEREBY APPEAL TO STEP 3 THE DECISION AT STEP 2 OF THE POSTMASTER OR DESIGNEE Mr. Jeffrey Foster, Labor Relations Representative OF THE Seattle Post Office INSTALLATION, RENDERED ON 2-22-94 AND RECEIVED ON 2-24-94

ATTACHMENTS (CHECK): STANDARD GRIEVANCE FORM STEP 2 DECISION UNION CORRECTIONS OR ADDITIONS TO STEP 2 DECISION (IF FILED)

THE FOLLOWING INFORMATION WILL HOPEFULLY ASSIST THE PARTIES IN QUICKLY RESOLVING THIS PROBLEM. TO DISCUSS THIS GRIEVANCE FURTHER, KINDLY CONTACT OUR NATIONAL BUSINESS AGENT JM EDGEMON, NBA NALC AT (ADDRESS) P.O. BOX 84398 VANCOUVER, WA 98184 206-892-6545 OR BY PHONE

VIOLATION: INCLUDING BUT NOT LIMITED TO NATIONAL (ART. & SECT.) 3,5,15 18 LOCAL (ART. & SECT.)

REASONS FOR APPEAL:
The Union was notified on 12-27-93 that as of 1-3-94 Main Office carriers would be required to daily check their arrow keys in and out. This has not been the practice at this office since 1987. Management has allowed carriers to keep assigned arrow keys for prolonged periods of time without any documented cases of loss or misuse. The Union contends in response to the notification of a change of practices with arrow keys this grievance was filed and heard at Step 1 with a resolution agreed to by the parties at Step 1. The Union contends that the agreement reached at Step 1 runs counter to the N-A and as such cannot be allowed to stand as it is in violation of our National Agreement.

CORRECTIVE ACTION REQUESTED:
The Union requests that the provisions of the National Agreement and Handbooks and Manuals be adhered to. The Union further requests that management and craft continue at the local level to address the issue of accountability of arrow keys for this office carriers in a contractually sound manner.

cc: NATIONAL BUSINESS AGENT, NALC
POSTMASTER

Jay Gaynor
BRANCH PRESIDENT/DESIGNEE

SIGNATURE



Seattle Branch 79

National Association of Letter Carriers, AFL-CIO

M-01205

Grievance # 35-415-93SE; C-C-3063-90

210 QUEEN ANNE AVENUE NORTH - SUITE 201
SEATTLE, WASHINGTON 98109
206-284-3420

Dear Mr. Foster:

The Union is in receipt of the Step 2 decision letter concerning the above referenced grievance and in accordance with Article 15, Section 2 (g) of the National Agreement, we are sending you this letter of additions and corrections to that decision.

As the Step 2 designee you state, "this grievance is not properly before me at Step 2". Based on procedural grounds that the instant grievance has been improperly elevated, the grievance was denied. The Union contended at Step 2 that the grievance had been properly elevated from Step 1. The provisions of handbooks and manuals, including the M-41, are incorporated into our National Agreement through Article 19. Neither the local Union and its stewards, nor management and its Step 1 representatives, can make binding grievance settlements when the settlements themselves run directly counter to the National Agreement.

Further the Step 2 decision letter put forth as un rebutted fact that a past practice of allowing carriers to keep their cache (Arrow) keys, and implies that as such, should remain. The Union contended that the prevailing view on past practices can override neither the law nor the National Agreement, and therefore can not be allowed to continue.

The decision letter refers to the argument made at Step 1 concerning the "grandfather clause" put forth by management in the settlement at Step 1. The settlement grandfathered present VIMS carriers and allowed them to continue to keep their Arrow keys, but called for future VIMS carriers to comply with the M-41. The Union argued that such a settlement was being unreasonable, arbitrary and capricious of local management in deciding to whom the National Agreement and M-41 would apply and to whom they would not apply.

The Union shall appeal grievance #35-419-93SE; C-C-3068-90 to Step 3 of the grievance-arbitration procedure.

Respectfully Submitted,

Mary H. Martinez
Mary H. Martinez
Alternate Chief Steward



Step 2 Grievance Decision

Installation: Main Office
Installation Finance#: 54-7621
Grievant's Name: Class Action
Grievant's SSN: N/A
Incident Date: 12/27/93
Local Union Grievance #: 35-419-935X
Local Management Grievance #: C-C-3068-90
Subject: Handling of Arrow Keys

February 22, 1994

Mr. Jay Gaynor
President, Branch 79, NALC
210 Queen Anne Avenue North, Suite 201
Seattle, WA 98109-4898

Dear Mr. Gaynor:

The above grievance was discussed at Step 2 of the grievance procedure with Mary Martinez on January 13 and 20, 1994.

The grievance concerns the handling of Arrow Keys at the Main Office Station.

The Union in their Step 2 Appeal stated that on December 27, 1993 they were notified by Management that as of January 3, 1994 Letter Carriers at Main Office Station would be required to check their Arrow keys in and out each day. The Union stated that this has not been the practice at Main Office Station since 1967. The Union stated that the practice by Management has been to allow Letter Carriers to keep their individually assigned Arrow keys for prolonged periods of time. The Union notes that this practice has continued without any documented cases of loss or misuse.

The Union stated that in response to Management changing the long standing practice of how Arrow keys were handled, that a Step 1 grievance was filed. The Union stated that the grievance was heard at Step 1 and that the grievance was sustained by Management at Step 1. The Union contended that the resolution reached at Step 1, Management sustaining the Union's grievance, is in violation of the M-41 Handbook and as such cannot be allowed to stand.

The Union in the Step 2 Meeting said that "the handbooks are the handbooks" and that a Step 1 grievance resolution cannot go against the Postal handbooks and manuals. The Union took the position that no one, not even a Union Steward, can make an agreement that is contrary to a Postal handbook or manual. The Union further took the position that no past practice, no matter how long or well established, can override the express language of a Postal handbook or manual. The Union took the position that the "Grandfather Agreement" reached between the local Steward and Management is improper, that both the Union and Management in this case are being arbitrary and capricious as to who the M-41 applies to or not. The Union wants the practice of allowing Letter Carriers to keep their individual Arrow keys stopped and that the Postal handbooks and manuals concerning Arrow keys be enforced as written.

C-C-3068-90; 35-419-93SE
February 22, 1994

page 2

The Union requests that the provisions of the National Agreement and (Postal) Handbooks and Manuals be adhered to. The Union further requests that Management and Craft at the local level address the issue of accountability of Arrow keys for Main Office Letter Carriers in a contractually sound manner.

The Union's arguments were taken into consideration. The Union has in this case elevated to Step 2 a grievance that was sustained at Step 1, not settled at Step 1 but sustained at Step 1. Management in this case attempted to change a twenty-seven (27) year practice only to have the Union file a Step 1 grievance on the change. Management and the Union met at Step 1 and Management agreed with the Union and sustained the grievance. Management sustained the Union's grievance only to have that same Union elevate the same grievance to Step 2. Now the Union at Step 2 wants to vacate the Step 1. In other words, the Union at Step 2 wants to overturn a successful grievance filed by their own Step 1 Designee.

It appears from the documentation that I have that the remedy requested at Step 1 by the Union, and ultimately granted by Management, was as follows:

Accept the Union's position on past practice and allow carriers to continue to keep their cache (Arrow) keys. Carriers bidding into or assigned to Main Office (Station) after January 31, 1994 will sign in and out for their cache (Arrow) keys.

This is apparently the "Grandfather Agreement" that the Union referred to in the Step 2 Meeting.

From what I can gather from the Union's submissions at Step 2, the Union at Step 2 is taking the position that M-41 Handbook Sections 261.21 and 431 are contrary to and in conflict with the position that the Union took at Step 1.

To once again make sure I understand this grievance, as I have never had a sustained grievance elevated to Step 2 before, the Union filed a grievance against Management when Management attempted to enforce the regulations cited below in the face of twenty-seven (27) years of past practice. Management sustained the grievance at Step 1 only to have the same Union elevate the sustained grievance to Step 2 and insist that the regulations cited below be enforced, enforced despite a long past practice to the contrary.

C-C-3068-90; 35-419-938K
February 22, 1994

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Section 261.21 reads as follows:

260 Accountable Items
261 Accountability Procedures
261.2 Receipting for Accountable Items.

.21 Keys

A number check is issued to each employee. When you surrender the check, you will be given a set of Arrow and/or padlock, and/or truck keys. (In some instances, a signature is used in place of a numbered check.) The keys are on a chain which must be securely fastened to a belt or clothing. Keys must be returned at the end of the tour of duty. The two most common type of keys are pictured below:

Section 431 reads as follows:

430 Clearance for Accountable Items.
431 Keys

Turn in mail keys in exchange for assigned key check or signature clearance.

To clarify the issue of past practice, the Union notes in their Step 2 Appeal, and mentioned this in the Step 2 Meeting, that for the last twenty-seven (27) years, since 1967, Letter Carriers at Main Office Station have been allowed to retain their Arrow keys and not have to check them in and out each day. I take this past practice, as put forth above, to be an un rebutted fact in this case.

Having put forth the background above, I am still left with the threshold issue of whether or not this grievance is properly before me. I cannot answer a grievance on its merits that is not properly in the grievance procedure or has not been properly elevated to Step 2.

Article 15.2.1.d states, "The Union shall be entitled to appeal an adverse decision to Step 2 of the grievance procedure..." (Emphasis added) In this case the decision of Management was to sustain the grievance or in other words agree with the position of the Union. The sustaining of a grievance is not an adverse decision. The language of Article 15.2.1.d is clear, the Union may only appeal to Step 2 those grievances in which they receive an adverse decision. As the Union cannot properly elevate this grievance to Step 2 then this grievance is not properly before me at Step 2.

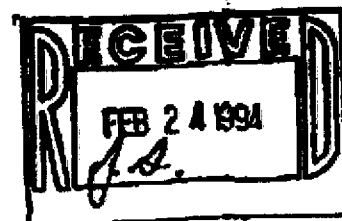
C-C-3068-90; 35-419-938E
February 22, 1994

page 4

Based on the procedural grounds put forth above this grievance is denied.

Jeffrey J. Foster
Jeffrey J. Foster
Labor Relations Specialist

cc: Postmaster, Seattle
Customer Service Operations Manager, South
Station Manager, Main Office





Pursuant to Article XV, Section 2, this form must be used to appeal a grievance to Step 2.

STANDARD GRIEVANCE FORM

DATE: 1/7/94
BRANCH OFFICE NO.: 35-419-930E
PHONE: 442-6259

TO: U.S.P.S. STEP 2 DESIGNEE (NAME & TITLE)
Mr. Lee Salazar, Postmaster
INSTALLATION: **Seattle Post Office**
PHONE: **442-6259**

FROM: BRANCH NO. **Seventy Nine** BUSINESS ADDRESS: **219 Queen Anne Avenue North Seattle, WA 98109** PHONE: **442-6205**

STEP 2 AUTHORIZED UNION REP. **Mr. Mary Martinez, Alternate Chief Steward** PHONE—OFFICE: **204-3420** PHONE—HOME:

STEP 1 MEETING HELD ON (DATE/TIME) **12-28-93** BETWEEN U.S.P.S. REPRESENTATIVE **Ron Tada** AND GRIEVANT **Mary Martinez** STEWARD

GRIEVANT'S NAME (OR CLASS) **Class**

HOME ADDRESS STATE

JOB CLASSIFICATION **Letter Carrier** CRAFT SENIORITY DATE USPS SENIORITY DATE DUTY HOUR

STATION OR BRANCH **Main Office** SOCIAL SECURITY NO. NO.

OFF DAVE: ROTATING FIXED—CHECK AS APPLICABLE SA BU M T W TH F LEVEL STEP REG. PTF

STEP 2 DECISION RENDERED ON (DATE/TIME) **12-28-93** BY (NAME & TITLE) **Ron Tada, Delivery Supervisor** SUPERVISORY INITIALS UPON DECISION

PURSUANT TO ARTICLE XV OF THE NATIONAL AGREEMENT, WE HEREBY APPEAL TO STEP 2 THE FOLLOWING GRIEVANCE VIOLATIONS INCLUDING BUT NOT LIMITED TO NATIONAL (ART & SECT) LOCAL (ART & SECT) OTHER GROUNDS:

FACTS: WHAT HAPPENED
The Union was notified on 12-27-93 that as of 1-3-94 this office carriers would be required to daily check their arrow keys in and out. This has not been the practice at this office since 1981. Management has allowed carriers to keep assigned arrow keys for prolonged periods of time without any documented cases of loss or misuse.

ADDITIONAL SHEET ATTACHED

UNION CONTENTIONS: REASONS FOR GRIEVANCE
The Union contends in response to the notification of a change of practices with arrow keys this grievance was filed and heard at Step 1 with a resolution agreed to by the parties at Step 1. The Union contends that the agreement reached at Step 1 is in violation of the N-41 and as such cannot be allowed to stand.

ADDITIONAL SHEET ATTACHED

CORRECTIVE ACTION REQUESTED:
The Union requests that the provisions of the National Agreement and Handbooks and Manuals be adhered to. The Union further requests that management and craft continue at the local level to address the issue of accountability of arrow keys for this office carriers in a contractually sound manner.

Jay Baynor BRANCH PRESIDENT/DESIGNEE SIGNATURE