



USPS # Q00C4QC07078116

American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Initiate National Dispute

February 1, 2007

Greg Bell, Director
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VIA FACSIMILE AND REGULAR MAIL

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Mr. Doug Tulino
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L'Enfant Plaza
Washington, D.C. 20260

Re: APWU No. HQTG20071, Reassignment of a Partially Recovered Employee Limited to Local Commuting Area

Dear Mr. Tulino:

In accordance with the provisions of Article 15, Section 2 and 4, of the Collective Bargaining Agreement, the American Postal Workers Union is initiating a Step 4 dispute.

The issues and facts involved in this dispute are as follows:

On May 5, 2006, Ms. Susan Carney, APWU Human Relations Director, wrote to the Postal Service expressing our belief that the reassignment of an injured Postal Service employee who partially recovers more than one year from the date eligibility for compensation begins should not be limited to the local commuting area. Such reassignment should also be made available agency wide.

On July 26, 2006, the Postal Service responded stating that OPM's restoration regulations specifically state that the Postal Service "must make every effort to restore in the local commuting area, according to the circumstances in each case, an individual who has partially recovered from a compensable injury and who is able to return to limited duty." It was further stated that the Postal Service considers this regulatory language to be mandatory and not permissive.

There is no disagreement that 5 CFR 353.301(d) requires the Postal Service to make every effort to restore a partially recovered employee to a medically suitable job in the local commuting area. This regulatory language establishes the action that the Postal Service, at a minimum, is required to take.

It is the position of the APWU, without prejudice to our position regarding the Postal Service "Reassessment Process," that the Postal Service has promulgated Article 19 handbook and manual language which establishes a binding obligation which exceeds the minimum required by federal regulation. In Chapter 546.142 of the ELM, the Postal Service establishes a policy which exceeds the requirements set forth in 5 CFR 353.301(d). Also, unlike the cited CFR language, the Postal Service policy makes no distinction between employees who have partially recovered within one year and those whose partial recovery took more than one year.

The cited ELM language obligates the Postal Service to "make every effort" to assign partially recovered employees to jobs which are consistent with their medically defined work limitation tolerances. There is no language which limits the required "effort" to specific geographic areas. Furthermore, the Postal Service clearly anticipates that their effort to find medically suitable work can extend beyond the work facility to which the employee was regularly assigned. The only geographic limitation established by this ELM language is that such out-of- facility assignments must be as close as possible to the original work facility. There is no language which limits such assignments to the local commuting area.

Also, the language of ELM 546.142 obligates the Postal Service to minimize any adverse or disruptive impact on the employees who are experiencing this reassignment process. By unilaterally applying a standard ("commuting area") that necessarily limits the area of the reassignment effort, the Postal Service has not only failed to minimize any adverse or disruptive impact on the employee, but has actually created the potential for such impact. If this new standard causes the Postal Service to be unable to find a medically suitable assignment, the employee will experience further negative impacts as a result of the eventual loss of their Postal Service employment.

Please contact Sue Carney, case officer, to discuss this dispute at a mutually scheduled time.

Sincerely,


Greg Bell, Director
Industrial Relations

APWU #: HQTG20071

Dispute Date: 2/1/2007

Case Officer: Sue Carney

Contract Article(s): 5; 15; 19; ELM 546,
Reassignment of Partially Recovered
Employees

cc: Resident Officers
File