

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration

between

UNITED STATES POSTAL SERVICE

and

AMERICAN POSTAL WORKERS UNION, *

AFL-CIO

* **Grievant: Class Action**

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* **Post Office: Houston, Texas**

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* **USPS Case #: G00T1GC03186859**

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* **APWU Case #: G03983**

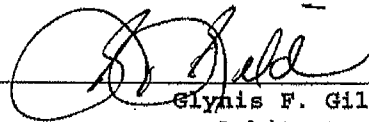
**BEFORE: GLYNIS F. GILDER,
ARBITRATOR**

APPEARANCES:

For the U.S. Postal Service:	Mrs. Taina Robinson
For the Union:	Mr. Terry B. Martinez
Place of Hearing:	Houston, Texas
Date of Hearing:	May 8, 2007
Date of Award:	July 11, 2007
Relevant Contract Provisions:	National Agreement Article 7§2 (A)
Contract Year:	2000-2006
Type of Grievance:	Contract – Crossing Crafts

Award Summary

This grievance involves the Service's directing Level 2 custodians to remove/replace adhesive tape delineating areas on the workroom floor. The Union contends this is a violation in that the work should have properly been assigned to Level 6 painters/carpenters. The Service contends no violation exists as the Level 2 custodians were assigned the work in the interest of operational efficiency. The grievance is sustained in its entirety.



Glynis F. Gilder
Arbitrator

assignments by including work within different crafts or occupational groups after the following sequential actions have been taken:

1. All available work within each separate craft by tour has been combined.

2. Work of different crafts in the same wage level by tour has been combined.

...”

THE UNION'S POSITION

The Union contends the Service's actions constitute a violation in that the task at issue is within the position description of a Level 6 painter/carpenter and not a Level 2 custodian and has traditionally been performed at the North Houston facility by those Level 6 employees.

THE SERVICE'S POSITION

The Service contends its actions do not constitute a violation in that the Level 2 employees were competent to perform the task at issue; that the Level 2 employees were assigned the task in the interest of operational efficiency and that it was more cost-effective to utilize the lowest level of competency to perform the task.

ANALYSIS AND DISCUSSION

The Union has made a prima facie case that the National Agreement has been violated by the Service's actions in assigning the task of removing/replacing adhesive tape to Level 2 employees instead of Level 6 painter/carpenters. That is the Union has demonstrated the tasks at issue properly fall within the functional job descriptions of Level 6 employees. The Union also demonstrated the tasks have historically been performed by Level 6 employees at the North Houston facility.

It then falls to the Service to offer a defense or some sort of rebuttal to the Union's case. In defense of its' actions, the Service argues the Level 2 employees were competent to perform the tasks at issue. Whether an employee is competent to perform a task outside of his occupational group or craft is not a determining factor as to whether that employee is permitted to perform the task in question. As esteemed arbitrator Ernest E. Marlatt stated in a case involving a crossing occupational group issue, "It is not disputed that Mr. Elliott

was qualified to perform the work, but that is not the point. He might also be qualified to play the Moonlight Sonata on the tuba, but that does not incorporate such duties into his job description.”¹ Absent a showing the removing/replacing tape duties were more properly within the job description of a Level 2 custodian than a Level 6 painter/carpenter, it would appear assigning the job to the custodians transgressed the Agreement between the parties.

The Service also argued the assignment to the Level 2 custodians was made in the interest of operational efficiency. Having made such an argument it would then fall to Management to demonstrate how it was more operationally efficient to have Level 2 custodians perform the tasks than Level 6 painters/carpenters. Management failed to do this; more is required to substantiate such a defense than a blanket assertion of operational efficiency. With nothing more than the assertion to support this defense, it does not serve as a defense at all.

In short, nothing has developed or been introduced during the course of this grievance or at the grievance hearing that would indicate the tasks at issue were more properly assigned to Level 2 custodians, that it was more operationally efficient to have Level 2 custodians perform those duties or that the Union’s claim of Article 7§2 having been violated is without merit or substance.

AWARD

Based on the foregoing facts, information and analysis, it is this arbitrator’s decision the Service did violate the National Agreement when it assigned Level 2 custodians the task of removing/replacing adhesive tape on the workroom floor.

The Service is directed to pay the two Level 2 custodians (Berry and Sinclair) the amount of time it took to complete the taping task at the Level 6 rate (straight time) less any compensation they have previously received at the Level 2 rate. The Service is also directed to pay all Level 6 painter/carpenters who were at work on the date of July 9, 2003 at the straight time rate for the time it took the Level 2 custodians to complete the taping task.

¹ Grievance No. S7V-3A-C 33536, taken from the Union’s Opening Statement (National Business Agent Terry B. Martinez).