C-30811

REGULAR ARBITRATION PANEL

In the Matter of Arbitration	)
	) Grievant: Mathew, Jacob
between	)
	) Post Office: Pasadena, California
UNITED STATES POSTAL SERVICE	)
	) USPS No. F06N-4F-C 12083602
and	)
	) NALC DRT No. 01-242152
NATIONAL ASSOCIATION	)
OF LETTER CARRIERS,	) NALC Local Grievance No. P15-12D
AFL-CIO	)

Before: M. Zane Lumbley, Arbitrator

Appearances: For USPS: Regina Cooks
For NALC: Charlie Miller

Place of Hearing: Pasadena, CA

Dates of Hearing: February 22 and 25, 2013

AWARD:

I. It is the Award of the Arbitrator that Management at the Pasadena Post Office violated the National Agreement, Which incorporates Handbooks and Manuals, when they issued Mr. Mathews [sic] a Notice of Separation for On OWCP Rolls for More Than One (1) Year, dated January 9, 2012.

II. It is therefore ordered that the Employer rescind the Notice of Separation and make the Grievant whole for all loss of wages and other contractual benefits he suffered as a result of the Employer's failure to perform the searches for limited-duty work required by Section 546.

III. The Arbitrator hereby reserves jurisdiction for ninety days from this date for the limited purpose of assisting the parties as may be necessary in the implementation of the remedy ordered above.

Date of Award: May 29, 2013

PANEL: Pacific Regular

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NALC HEADQUARTERS

AWARD SUMMARY

PROCEDURAL MATTERS

This matter was convened pursuant to the parties' 2006-2011 collective bargaining agreement (Joint Exhibit No. 1, hereinafter "National Agreement") at Pasadena, California, on February 22 and 25, 2013. Both parties were represented, presented documentary evidence and called one or more witnesses who testified under oath administered by the Arbitrator. The parties submitted posthearing briefs that were received in the Arbitrator's Texas office on April 30, 2013, and the record was closed.

ISSUE

The parties agreed on the following Step B issue to be resolved:

> Did Management at the Pasadena Post Office violate the National Agreement, which incorporates Handbooks and Manuals, when they issued Mr. Mathews [sic] a Notice of Separation for <u>On OWCP Rolls for More Than One (1) Year</u>, dated January 9, 2012? If so, what is the appropriate remedy?[1]

RELEVANT PROVISIONS OF THE NATIONAL AGREEMENT

The relevant provisions of the National Agreement are:

ARTICLE 3
MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

. . .

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

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1 Emphasis in original.

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

. . .

ARTICLE 5
PROHIBITION OF UNILATERAL ACTION

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined n Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

ARTICLE 19
HANDBOOKS AND MANUALS

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

FACTS

The Grievant has been a letter carrier since October 29, 1983. He suffered a compensable on-the-job injury on October 24, 2000. His claim was accepted by the Department of Labor Office of Workers Compensation (hereinafter "OWCP") on December 18, 2000. He continued to work through September 23, 2008. His last job offer was dated June 23, 2008, and consisted of driving an LLV and performing both dismount and park and loop deliveries as well as Express Mail deliveries. His restrictions at the time cited in the job offer were no lifting over 2 pounds continuously or 5 pounds intermittently, no pushing or pulling over 2 pounds per hour, no reaching

above right shoulder and no reaching above chest level.[2]

The Grievant subsequently underwent surgery on October 15, 2008. Thereafter, on March 24, 2009, his doctor issued a new set of restrictions that did not specify a lifting limitation but continued to state he could not reach to his right, reach above his right shoulder or push to the right. On November 12, 2010, the Grievant's physician issued a new set of restrictions stating the Grievant could not reach above chest level with his right shoulder or hand or stretch his right arm fully out to the right side but could lift 5 pounds continuously and 20 pounds intermittently. The doctor repeated these restrictions on August 24, 2011.

The last search for work for the Grievant was initiated on October 5, 2011, and appears to have ended on November 9, 2011.[3] According to then-District Assessment Team (hereinafter "DAT") leader Clark, who was responsible for ensuring that such searches were performed, requests were generated first within the various offices of the Pasadena Post Office and then within a fifty-mile radius of Pasadena but none located any work the Grievant could perform. Thus a request to remove the Grievant because he had been on Leave Without Pay - Injured on Duty (hereinafter "LWOP-IOD") for over a year was submitted by USPS Sierra Coastal District Manager, Health and Resource Management Villegas. Villegas testified such a request was appropriate where an employee was on LWOP-IOD over 365 days and could not return to a limited duty

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2 Joint Exhibit No. 2, page 10-1.

3 Although the Union notes on brief that these final searches commenced on October 27, 2011, it appears Clark actually initiated this last set of searches inside the Pasadena Post Office on October 5, 2011. See, e.g., Joint Exhibit No. 2, pages 9-20a and 9-23a. She began to receive responses the same day. See, e.g., Joint Exhibit No. 2, page 9-20a and 9-22a. It was on October 27, 2011, that Clark commenced searching outside the Pasadena Post Office. See, e.g., Joint Exhibit No. 2, page 9-29a. As in the case of the Pasadena searches, she began to receive responses the same day she initiated the out-of-Pasadena searches. *Ibid.* It appears the last response Clark received, as the Union asserts, came on November 9, 2011.

assignment within six months. According to Villegas, however, the Service's ability to separate such employees was not limited to totally disabled employees. USPS Director of Safety and Health DeCarlo testified she reviewed a comprehensive report of the matter and approved the request because the Grievant had been on LWOP over a year, could not perform all of his original duties and there was no work for the Grievant within his medical restrictions.

Pasadena Postmaster Houpy, who came on the scene in August 2011 and had not been a party to the earlier events, testified she signed the Notice of Separation dated January 9, 2012, once it had been determined by others that there was no work for the Grievant. The letter ultimately issued to the Grievant stated, in relevant part:

> This is notification that you will be separated from the Postal Service on February 11, 2012, due to your inability to perform the essential functions of your position. On October 24, 2000, you suffered a compensable injury. For more than one year, you have been continuously absent from duty as you have been on the periodic rolls of the Office of Workers' Compensation Programs (OWCP). It appears unlikely that you will be returning to perform the duties of your position in the near future. As a result, you are being administratively separated from the Postal Service.
>
> This is not a disciplinary action, but rather, this is an administrative action based on the above referenced circumstances and is taken in accordance with the provisions of the Employee and Labor Relations Manual, Section 545.9. This administrative separation will not affect your OWCP payments.
>
> . . .
>
> Although you are being administratively separated from the Postal Service, you will retain your restoration rights following your full or partial recovery from your compensable injury. In accordance with 5 U.S.C. § 8151, 5 C.F.R. § 353.301 and Section 546.1 of the Employee and Labor Relations Manual, a current or former employee who fully or partially overcomes the compensable injury or disability retains certain restoration to do the right. If you do fully or partially recover from your compensable illness or injury, you should immediately request restoration with the Postal Service.[4]

The Union grieved the Employer's January 9, 2012, letter on January 25, 2012.

4 Joint Exhibit No. 2, page 2-1.

The parties processed the grievance through the prescribed steps of the grievance procedure and, when Step B resulted in an impasse on August 2, 2012, the dispute came on before the undersigned.

DISCUSSION AND ANALYSIS

Position of the Union

The Union contends the Employer violated the National Agreement and relevant manuals and regulations by separating the Grievant. In its view, although the Grievant has been capable of performing many of the duties of a letter carrier during the relevant period, management both performed inadequate appropriate searches for work and prematurely ended its efforts to find work for the Grievant, thereby failing to make every effort to find duties for the Grievant to perform as required by ELM Section 546. As regards the Service's reliance on ELM Section 365.34, NALC contends that provision only applies to employees who are totally disabled and will never be able to return to work in any capacity. Thus it asserts the Employer should be required to rescind the separation notice and make the Grievant whole for all wages and benefits lost.[5]

Position of the Agency

The Agency argues that it did not violate any provision of the National Agreement or any manual or regulation in its separation of the Grievant. In support of that basic

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[5] The specific request set forth in the Union's brief is that "the separation notice be rescinded and the Grievant be made whole for all lost wages [sic] fringe benefits [sic] November 9, 2011 until he was returned to duty on March 25, 2013." Because these hearings were conducted in February 2013, the record contains nothing about actions taken in March 2013. Accordingly, the Award set forth *infra* is worded prospectively. If its effective period should cease in March 2013, I leave that for the parties to address, including by invocation of my retained jurisdiction if necessary.

position, the Employer relies principally on its assertion that ELM Section 365.34, which it believes does not contradict ELM Section 546, permits the separation for disability of any employee "whose medical condition renders the employee unable to perform the duties of the position . . . at the expiration of 1 year of continuous absence without pay . . . [unless] . . . there is reason to believe the employee will recover within a reasonable length of time beyond the 1-year period. . . ." As regards its searches for work to assign the Grievant, the Agency asserts that not only did it follow the proper pecking order set forth in ELM Section 546 and make the required searches, the Union failed to support its contention to the contrary at the hearing in any event. Accordingly, the Service requests dismissal of the grievance.

Decision of the Arbitrator

Having now had the opportunity to consider the entire record in this matter, including the parties' posthearing briefs and the citations contained therein, I have determined to agree with the Union that Management at the Pasadena Post Office violated the National Agreement when they issued the Grievant a Notice of Separation dated January 9, 2012. While I have studied all the evidence submitted and considered each argument raised by the parties, the following discussion will address only those considerations I found either controlling or necessary to make my decision clear.

Addressing first the matter of burdens in this case, although the parties agreed at the hearing that the Employer would proceed first even though this is not a disciplinary dispute, they differed as to what sort of cause was required in order for the Service to demonstrate its decision was proper. On brief, the Employer cites Arbitrator Owens's

decision in *Case No. C06M-4C-D 10331162* (2011), relying on the following words of Arbitrator Trosch in *Case No. C06M-4C-C 08034285* (2010):

> The separation . . . has the characteristics of a disciplinary action, insofar as which party has the burden [of] proof. That is not to say that the typical elements of just cause must be established, but rather that Postal Service has the burden of showing that the action was procedurally proper and supported by the record.[6]

While I agree, I do not believe that burden was met.

Although it appeared initially, due in some measure to the Union's concern that an interpretive issue was involved in this dispute, that the grievance arguably raised a conflict between the language of ELM Section 365.34 and ELM Section 546, I agree with the Employer that that is not the case. However, I believe the facts establish that the Employer applied neither provision properly.

As regards the former, whereas NALC contended that Section 365.34 applied only to totally disabled employees, the Service and its witnesses asserted that it has application to any injured employee who is not believed capable of returning to the full scope of his or her duties within six months. What Section 365.341 of the ELM states is, "*Separation-disability* is a term used to indicate the separation of an employee other than a temporary, casual, or a probationary employee whose medical condition renders the employee unable to perform the duties of the position and who is ineligible for disability retirement."[7] What it does not say is that it applies to an employee who cannot perform <u>some</u> of the duties of his or her position. Thus the Employer's interpretation of Section 365.34 cannot be correct. Indeed, even the Notice of Separation states, "If you do fully <u>or partially recover</u> from your compensable injury, you should immediately

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6 *Case No. C06M-4C-D 10331162*, *supra*, sl. op. at page 7.

7 Italics in original.

request restoration with the Postal Service."[8] That makes it clear that, at the time the Notice of Separation was written, management knew it applied only to employees who could not perform any letter carrier duties whatever. Such an interpretation is also consistent with Section 4.22 of EL-505 entered in the record as Joint Exhibit No. 3 that requires either a "written limited duty job offer" or a "written job offer for a permanent modified position," depending on whether the employee has a temporary partial disability or a permanent partial disability, respectively. Moreover, it is undisputed in this case that, at the time of his separation, the Grievant already had partially recovered and there clearly were many letter carrier duties he was capable of performing if they were available.[9] Accordingly, there was nothing to relieve the Service of its ordinary obligations pursuant to ELM Section 546.141 *et seq.*[10]

ELM Section 546.141 states:

> 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 tolerances (see 546.32). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee.

The Grievant was indisputably such an employee and the Employer concedes as much by conducting searches after the Grievant's recovery from surgery.

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8 Joint Exhibit No. 2, page 2-1. [Emphasis added].

9 Thus nothing in ELM Section 545.9, entitled Managing Extended Leave Cases, which immediately precedes Section 545.93, the section of the ELM authorizing separation of certain employees pursuant to Section 365, required the separation of the Grievant since it addresses employees who are "unable to return to work," a designation inapplicable to the Grievant.

10 In this connection, while I agree with the view of burdens adopted by Arbitrator Owens in the decision cited above, I do not find the Employer's citation of his views with respect to ELM Section 365.342(e) helpful here since, unlike in the grievance before Arbitrator Owens, which was decided in the Service's favor because the employee therein had failed to cooperate by providing an update to his 24-month-old medical restrictions, the present controversy does not hinge on subsection (e) of ELM Section 365.342. Thus, among other things, it is irrelevant that the Grievant chose not to apply for disability retirement.

ELM Section 546.142 then states, "When an employee has partially overcome the injury or disability, the Postal Service has the following obligation," and that statement is succeeded by a description of what the parties refer to as the "pecking order" of the searches that must be undertaken in subparagraphs (a) through (d) thereof. Those paragraphs all specify that it is "adequate work . . . within the employee's work limitation tolerances" for which the Employer must search. The pecking order requires that management commence the searches in the employee's craft, in the facility to which he or she is regularly assigned and during the hours the employee regularly works, progressing as no work is found within the employee's own facility, either within or outside his or her craft and within or outside his or her normal hours, to the same set of searches outside the employee's facility. Subparagraphs (a) through (d), in laying out the pecking order, use the terms "every effort" and "all reasonable efforts" in describing the thoroughness required.

As regards whose responsibility it is to establish what in deciding ELM Section 546 search disputes, I held in Case No. *F06N-4F-C 09208815/NALC DRT No. 01-151652* (2010):

> As the Employer notes, the Union generally assumes the ultimate burden of proving a violation of the National Agreement in a contract interpretation grievance. *Cases No. B98N-4B-01029365/B98N-4B-I 01029299* (Nolan, July 25, 2004); *Case No. E95R-4E-C 99099528* (Eischen, January 12, 2003). However, where, as here, it is the Employer who is the party both variously required by the ELM to make "every effort" or "all reasonable efforts" to locate limited duty work for the Grievant and the custodian of the relevant records, the initial burden placed on the Union to make out a *prima facie* case of a violation is not a heavy one. No less an authority than the late respected National Arbitrator Carlton Snow found in Case No. F94N-4F-C 96019290 that "[t]he burden of proof is on the party asserting the affirmative of an issue" and that
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> > . . . if a party were required to prove as its initial claim that the other party did not have legitimate reasons . . . for making a decision, it would be faced with proving a negative assertion. In such a circumstance, **the burden of going forward with the**

> **evidence could be shifted by slight proof because essential evidence to proving the negative would lie within the primary control of the other party**. [Emphasis added].

In fact, in *Case No. WON-5TC-862* (March 23, 1993), a case cited by the Union on brief, the late Arbitrator Abernathy stated at page 19 of his decision, following Arbitrator Lang's [sic] lead in *Case No. W4N-5C-C 43784* (December 20, 1989):

> Moreover, arbitrators have held, contrary to the position of the Postal Service in the present case, that once the Union shows that the employee is subject to this section, the Postal Service has the burden of proof that it followed the pecking order [of ELM Section 546.142] in assigning work to the limited duty employee.[11]

Here, since I have found that ELM Section 365.34 did not apply to the Grievant and thus that he is subject to ELM Sections 546.141 and 546.142, the burden shifted to the Employer to show that it complied with its Section 546 obligations.

In assessing whether the Service met those obligations, I have decided that none of the searches in this case satisfied the Employer's ELM 546 obligations. Preliminarily, I am not able to agree with the Union that no searches were conducted between October-November 2009 and October-November 2011. In fact, Joint Exhibit No. 2 demonstrates that unsuccessful searches were performed in January 2011, as well.[12] What Joint Exhibit No. 2 also establishes, however, is that the October-November 2009 searches were totally flawed inasmuch as Clark's inquiries during that period requested searches for the now-discredited standard of "operationally necessary work."[13] See, my detailed discussion and relevant citations in *Case No. F06N-4C-C 09208815/NALC DRT No. 01-151652, supra*. Several of the January 2011 responses also used the

11 Sl. op. at page 10.

12 See, e.g., Joint Exhibit No. 2, pages 9-38a, 9-39a, 9-55, 9-56, 9-71a and 9-75a, among others.

13 See, e.g., Joint Exhibit No. 2, pages 9-102, 9-103, 9-106, 9-107 and 9-108, among others.

inappropriate standard of "Operational [sic] Necessary Tasks (ONT)" and thus failed to satisfy the Service's search obligations.[14]

As regards the October-November 2011 searches, although the Union does not argue that the standard of "adequate, tangible tasks" for which Clark requested other managers to look was impermissible, it contends that those efforts 1) were perfunctory in nature and 2) ultimately ran afoul of the Employer's "continuing" obligation to look for work.

As concerns the first point, citing Arbitrator Lange in *Case No. W4N-5C-C 43784/NALC GTS NO. 12779* (1989), Arbitrator Reeves held in *Case No. E94N-4E-C 99215892/NALC GTS No. 14511* (2000), "However, the bare assertion that there was no available work, without additional substantiation, is insufficient to demonstrate compliance with Section 546.141 and does not shift the burden of proof to the Union to demonstrate that work was available."[15] As I found in *Case No. F06N-4F-C 09208815/NALC DRT No. 01-151652* (2010), cited by the Union on brief:

> To hold otherwise would permit the Employer to avoid its ELM 546 obligations just by saying, 'I looked and found nothing.' The very detailed provisions of Section 546.142 of the ELM cannot have intended such a result.[16]

I agree with the Union that the Service's searches in October-November 2011 were perfunctory in nature. However, I do not do so because some responses to Clark's inquiries were received quickly and without all the blocks checked on the

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[14] See, Joint Exhibit No. 2, pages 9-55 and 9-107a.

[15] Sl. op. at pages 20-21.

[16] Sl. op. at page 13.

attached route listings. Instead, I do so because I believe they inappropriately failed to give adequate consideration to assigning a number of letter carrier tasks to the Grievant that he could have performed. Thus I am convinced the Employer failed to conduct the appropriate searches for limited duty work within the Grievant's medical restrictions required by ELM Section 546. As Arbitrator Abernathy found in *Case No. W0N-5TC-862* (1993), a dispute in which the Union successfully grieved management's decision to offer a letter carrier injured on the job a rehabilitation job consisting of clerk duties outside his facility:

> . . . the Employer's actions in this case apparently were based on a determination of what would be in the best interest of the Postal Service, in terms of manpower. One must remember, however, that Section 546.141(a) requires the Employer to find "adequate work" for limited duty employees. As Arbitrator Goodman found in Case No. W7N-5T-C12431, the case cited earlier in this opinion, the term "adequate work" does not mean "most efficient, economical or practical" from the point of view of the Postal Service. Rather, it means "suitable, satisfactory or sufficient to occupy the employee's work day." . . . The important point with respect to the Employer's rights under Article 3, however, is that while the Employer may have acted in this case in terms of what it believed was best for the Postal Service, the fact is that the Postal Service and the Union agreed to the provisions of ELM Section 546.141 at the national level in a pre-arbitration settlement of a grievance in 1979. The Employer is bound to meet those requirements and has no authority to run roughshod over the process contemplated by this provision of the ELM in the name of the exercise of management rights under Article 3.[17]

For example, it was improper to rule out the assignment of the delivery of Express Mail to the Grievant simply because he may have required assistance in loading his vehicle.[18] Similarly, while Clark testified that some available mounted delivery was identified, it was not considered for assignment to the Grievant because he could not reach out the LLV to his right side. It appears no consideration was given to

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[17] Sl. op. at pages 26-27.

[18] <u>See</u>, the discussion at between Clark and Houpy at Joint Exhibit No. 2, pages 9-39 and 9-40a.

determining whether that mounted delivery could have been converted to a park and loop.[19] Nor, although Clark also testified with respect to satchels that don't go over a carrier's shoulder and pushcarts that are available for carriers to use, neither of those devices was considered as a way to assist the Grievant in transporting mail exceeding his lifting limitations. Finally, the testimony at the hearing makes clear that the possibility of assigning casing duties to the Grievant to be performed with his left hand was never seriously considered because casing traditionally has been accomplished with carriers' right hands. Not only is the Grievant not restricted in the use of his left arm and hand, he continues to be able to perform work in front of his body at a level below his shoulder with his right hand and testified without contradiction that he has adapted to use both hands. Perhaps a case could have been reconfigured that would even have permitted the Grievant to case solely with his right hand.

As Arbitrator Abernathy pointed out in *Case No. WON-5TC-862, supra,* "the term 'adequate work' does not mean 'most efficient, economical or practical' from the point of view of the Postal Service . . . it means 'suitable, satisfactory or sufficient to occupy the employee's work day.'"[20] To repeat here what I stated in *Case No. F06N-4F-C 09208815, supra,* "The point is that I believe, arduous as it may seem, the Agency must think outside the box on occasion if it is to satisfy the ELM 546 obligation to make every effort to locate limited duty work for qualified employees."[21] The Agency cannot simply write off an employee injured on the job by saying, "Well, that isn't the way we do things

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19 Clark testified that the Grievant's need for retraining on driving an LLV after not having done so for two years posed no difficulties.

20 Sl. op. at page 26.

21 Sl. op. at page 11.

here."[22] Notwithstanding the Employer's rights retained in Article 3 of the National Agreement to "maintain the efficiency of the operations entrusted to it" and "to determine the methods, means, and personnel by which such operations are to be conducted," it agreed to the provisions of ELM Section 546. When it did not comply, it violated Articles 5 and 19 of the National Agreement.

As concerns the Union's second point, it is undisputed that the Employer's obligation to search for work for an employee injured on the job continues as long as the employee remains on the rolls of the Postal Service, as the Grievant did during all relevant times, even during and after the hearing herein since this dispute remained unadjudicated. *Case No. H1N-1J-C23247/C7233* (Bernstein, 1987). Thus I agree with the Union that the Employer failed to satisfy its continuing obligation to the Grievant by announcing via the Notice of Separation in January 2012 that it intended to make no more searches.[23] That is because nothing of significance as regards the Grievant occurred between the time of the 2009 searches and the late 2011 searches that should have served to let the Employer off the hook.[24] Simply deciding not to do any additional searches could not possibly "minimize any adverse or disruptive impact on the employee," as required by ELM Section 546.141. As was the case when the Service failed to give adequate consideration to assigning a number of letter carrier tasks to the

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22 Thus I find it unnecessary to consider whether management also failed to look for work in other crafts that could have been assigned to the Grievant.

23 In so finding, if the Employer had been entitled to separate the Grievant, I would not have faulted it merely because the Notice of Separation did not issue until January 2012. The Service is, after all, required to exercise due diligence in executing a separation and that requires time.

24 Although the lifting restrictions disappeared from the documentation completed by the Grievant's physician on March 24, 2009, I infer that was an oversight since they had appeared both before his surgery and reappeared, albeit at a higher level, in the two sets of restrictions subsequently issued by his doctor on November 10, 2010, and August 24, 2011.

Grievant that he could have performed, this also violated Articles 5 and 19 of the National Agreement.

Accordingly, I find that Management at the Pasadena Post Office violated the National Agreement, which incorporates Handbooks and Manuals, when they issued Mr. Mathews [sic] a Notice of Separation for On OWCP Rolls for More Than One (1) Year, dated January 9, 2012. Thus I shall direct that the Notice of Separation be rescinded and the Grievant be made whole.

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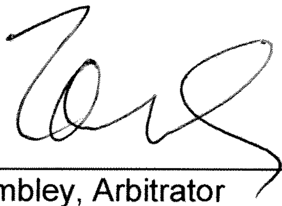
AWARD

I. It is the Award of the Arbitrator that Management at the Pasadena Post Office violated the National Agreement, which incorporates Handbooks and Manuals, when they issued Mr. Mathews [sic] a Notice of Separation for On OWCP Rolls for More Than One (1) Year, dated January 9, 2012.

II. It is therefore ordered that the Employer rescind the Notice of Separation and make the Grievant whole for all loss of wages and other contractual benefits he suffered as a result of the Employer's failure to perform the searches for limited-duty work required by Section 546.

III. The Arbitrator hereby reserves jurisdiction for ninety days from this date for the limited purpose of assisting the parties as may be necessary in the implementation of the remedy ordered above.



M. Zane Lumbley, Arbitrator

May 29, 2013
Date