

BEFORE THE INTEREST ARBITRATION PANEL

In the Matter of:

United States Postal Service,)	
)	
Employer)	
)	
and)	2006 National Agreement
)	
National Rural Letter Carriers' Association,)	December 3, 2007
)	
Union)	
)	

Herbert Fishgold, Neutral Chairperson
Robert A. Dufek, U.S. Postal Service Member
Dennis D. Clark, NRLCA Member

I. INTRODUCTION

This Interest Arbitration Panel was convened pursuant to 39 U.S.C. Section 1207(c) of the Postal Reorganization Act to resolve the dispute over the terms of the next labor agreement between the United States Postal Service and the National Rural Letter Carriers' Association (NRLCA). The Panel has carefully considered the arguments and evidence submitted by the parties, relevant statutory provisions, past interest arbitration awards, and negotiations history. At the direction of the Chairman and with the consent of the parties, the Panel members and the parties met separately and jointly with the Chairman who received additional information, argument and clarification. The Panel appreciates the vigorous and constructive role undertaken by each of the parties as they advanced their respective positions.

II. BACKGROUND

The Postal Service entered 2006 negotiations with collective bargaining agreements that expired on November 20, 2006, with all four of its largest unions. While no agreements were concluded by that date, by mid-December the Postal Service had reached tentative agreements with the American Postal Workers Union, AFL-CIO (APWU), the National Postal Mail Handlers Union, AFL-CIO (Mail Handlers Union) and the NRLCA. The respective memberships of the APWU and the Mail Handlers Union ratified their tentative agreements, but the membership of the NRLCA did not. In July 2007, the Postal Service reached a tentative agreement with the National Association of Letter Carriers, AFL-CIO (NALC), which was ratified two months later in September. Though similar in scope and overall economic impact, the precise economic terms, as well as various work rule changes, differed among the agreements, as did to some extent contract length. However, the bottom line was that each agreement represented substantially similar increases in labor costs to the Postal Service, on a per employee basis. The differences in general wage increases reflected in those agreements were the product of each union's willingness and ability to afford the Postal Service labor cost savings by agreeing to various work rule and other changes.

The Chairman of the Panel was selected pursuant to procedures agreed upon by the Postal Service and the NRLCA and was subsequently appointed by the Director of the Federal Mediation and Conciliation Service. The parties then designated their own members of the Panel. The NRLCA appointed Dennis D. Clark, of the Washington, DC law firm of Peer & Gan to be its party-designated arbitrator. The Postal Service

appointed Robert A. Dufek of the Washington, DC law firm Morgan Lewis to be its party-designated arbitrator.

In late September 2007, at the request of the Chairman, the parties provided the Panel with relevant background materials, including copies of the 2000-2004 USPS-NRLCA National Agreement, the 2004-2006 Extension thereto, and the newly revised Rural Carrier Duties and Responsibilities Handbook (PO-603). On October 24, 2007, the parties filed extensive and informative pre-hearing briefs on what they considered to be the important issues in dispute and the relevant factors, evidence and events that the Panel should consider.

The hearing began on October 29 with the parties giving lengthy opening statements, with exhibits, that reaffirmed and elaborated on themes and positions found in the parties' pre-hearing briefs, reviewed interest arbitration precedent and negotiations history, and provided explanatory information about the mission and operations of the Postal Service and the duties, responsibilities and unique compensation system applicable to rural carriers. The Postal Service stressed the business challenges it faces, the impact of new postal legislation, the significance of interest arbitration precedent, the costs and employee benefits associated with the evaluated compensation system and the goals management had and the approach it took in 2006 collective bargaining negotiations with all of its unions. The NRLCA emphasized the important role rural carriers have in postal operations and their value to the Postal Service and the public they serve, the level of their compensation as compared to other postal bargaining units, the insufficiency of the Equipment Maintenance Allowance, the impact of past negotiations and interest arbitration

decisions and the significance of the evaluated compensation system to the issues before the Panel, including the savings it offers the Postal Service.

III. OPINION OF CHAIRMAN FISHGOLD

The Panel is mindful of its role as interest arbitrators, as opposed to the responsibility the parties have in the collective bargaining process. The Panel recognizes that whatever we decide here will result in a binding collective bargaining agreement that the parties will have to live with for the duration of that particular agreement. It is always better for the parties to have the opportunity to mutually address the terms of their agreement and decide the terms for themselves. This consideration has particular relevance when, as in this proceeding, the parties have reached a tentative agreement through collective bargaining, and that tentative agreement has failed ratification by a narrow margin.

During the initial week of hearings, but after the pre-hearing briefs and opening statements had fully addressed the fundamental arguments and proposals of the parties, I gave guidance to the parties concerning my view of the limited range of alternatives available in fashioning an award, particularly in light of the three ratified contracts and the NRLCA tentative agreement (although not ratified).¹ As noted, the APWU, NALC, and NPMHU had negotiated voluntary agreements with the Postal Service, as did the NRLCA.

¹ From the outset, the NRLCA strenuously argued that the terms of the tentative agreement should not be before the Panel. However, for reasons explained later in this Opinion, I determined that the terms of the tentative agreement were indeed relevant.

I considered these facts -- that all four major Postal Service bargaining units had negotiated separate agreements (although the tentative agreement with the NRLCA was not ratified) to be quite relevant. Thus, the 2006 negotiations cycle and the results of those negotiations provided an important context for my consideration of the parties' respective proposals.

It was also very apparent to me that the parties' proposals to this Panel on the core economic issues at impasse were substantially different than those items agreed to by the Postal Service and NRLCA in their tentative agreement or by the Postal Service and the other three unions. If the confluence of circumstances would have been different, I might have felt differently about my role as neutral chair, but in this case I felt compelled not to significantly depart from the basic economic terms underlying the most recent round of bargaining.

I could have waited until the end of the parties' full evidentiary presentations to announce that the other three settlements (APWU, NALC, and NPMHU) and the collective bargaining history between the Postal Service and NRLCA since August 2006 were going to inform my judgment to a much greater degree than any other arguments, however well-supported, that the parties could make for substantial change. Instead, early on I shared with my colleagues on the Panel and the parties directly in executive session that neither side would be able to achieve substantial change through this process under the unique circumstances of this case. I informed the parties that any award in this case setting the terms of the NRLCA agreement would not vary significantly from the bottom line labor costs resulting from the agreements reached with the other labor organizations and that I would be largely influenced by the parameters

set by those agreements. I further informed the parties that substantive or innovative variations from the historically agreed to terms of the parties' labor agreements would not be appropriate in this interest arbitration in light of the treatment of the core economic issues in the tentative agreement and the ratified agreements. For example, I indicated that there would be no locality-based pay system as urged by the Postal Service, and no significant pay increases to move rural carrier pay closer to city carrier pay as urged by the Association. I also indicated that I would not be entertaining standards changes proposed by either party other than what was addressed in the tentative agreement.²

Thus, I informed the parties that they might influence me to make marginal changes to the tentative agreement, but certainly not changes of the sort sought by each side in their initial presentations. I strongly encouraged the parties to explore ways in which their respective priorities could be communicated to me and to each other so that appropriate changes, if any, could be incorporated into an award in light of the three ratified agreements and their tentative agreement. Obviously, my unequivocal statements regarding the expected outcome permitted the parties to focus their arguments and avoid some unnecessary hearing presentations before the Panel.

It must be stated that my judgment about how to resolve the impasse herein was not welcome news to the Postal Service or to the NRLCA, but I believe that given the

² The Chairman stresses that this determination is not intended to pass on the merits of the parties' proposals or, in any way, to foreclose these proposals from future consideration. Rather, as described above, it is a response to the unique circumstances—the existence of a narrowly defeated tentative agreement and other ratified agreements within similar economic parameters—that led up to these proceedings.

unique circumstances of this particular round of collective bargaining, this arbitration process should operate so as to put the parties as close as possible to where they would have been had impasse not been declared and had an agreement been negotiated.

Within the framework that I provided, the Panel and the parties discussed options that might address particular concerns. The Award reflects some of these discussions. Rarely in interest arbitration does either party get all that it wants, and certainly neither party did here. Nevertheless, in fashioning this Award, the Panel attempted to respond to the parties' directions with respect to preferences among available alternatives. Given the constraints I placed on both parties, I am confident that both sides were able to achieve the changes they needed and thus better able to control their priorities. Without addressing the specific merits of each and every issue raised by the parties, the Panel's Award is as follows.

IV. AWARD

A. Duration of Agreement

The 2006 National Agreement will have a four-year term, beginning November 21, 2006, and expiring at 12 midnight, November 20, 2010. Unless otherwise provided, this Agreement shall be effective with the issuance of this Award.

B. General Wage Increase

Wage increases are awarded as follows:

Effective November 25, 2006 – the basic annual salary for each step shall be increased by an amount equal to 1.2% of the basic annual salary for the grade and step in effect on September 2, 2006.

Effective November 24, 2007 – the basic annual salary for each step shall be increased by an amount equal to 1.5% of the basic annual salary for the grade and step in effect on September 2, 2006.

Effective November 22, 2008 – the basic annual salary for each step shall be increased by an amount equal to 1.5% of the basic annual salary for the grade and step in effect on September 2, 2006.

Effective November 21, 2009 – the basic annual salary for each step shall be increased by an amount equal to 1.5% of the basic annual salary for the grade and step in effect on September 2, 2006.

The 2006 and 2007 general increases will be paid as soon as administratively practicable.

C. Cost of Living Adjustment (COLA)

COLA continues under the current formula, with a base index of May 2007. COLA roll-in for the RCA/RCRs will occur February 2011.

D. One-Time Cash Payment

All eligible full-time rural carriers will receive a one-time cash payment of \$686, not to be included in basic pay. All other career rural carriers shall receive a one-time cash payment in proportion to the number of paid hours in the year prior to the effective date of payment.

The dates for eligibility and payment will be established as soon as administratively practicable.

E. Equipment Maintenance Allowance (EMA)

The current EMA shall continue except the base rate of 38.5 cents will be increased by 7.5 cents as follows:

Effective January 2008 – 3.0 cents

Effective October 2008 – 2.0 cents

Effective October 2009 – 2.5 cents

F. Health Benefit Premiums

The formula for determining the division of the premium for current employees will be adjusted to decrease the Employer's contribution as follows:

Effective Plan Year 2009 – 2%

Effective Plan Year 2010 – 1%

Effective Plan Year 2011 – 1%

The limitation upon the Employer's contribution towards any individual employee shall be proportionately adjusted.

G. Temporary Relief Carriers ("TRC")

The formula for determining the number of TRCs shall be changed to a cap of 15% of all regular rural routes at the Area level. This cap replaces the formula provided in the last two sentences of Article 7.D.1.

H. Change of Address Credits

The credit for change of addresses (COAs) will be 15 seconds for each 3982 label received during the mail count unless the carrier is required to perform any additional duties of completing Forms 3575, 3546, and/or writing addresses on Form 3982. In such instances, the credit for the 3982 label will be two minutes.

I. Revenue Generation

The Panel awards the attached Memorandum of Understanding.

J. Employer Provided Vehicles

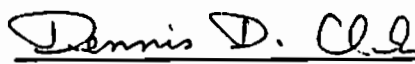
The Union sought inclusion of a Memorandum of Understanding providing that the Postal Service would furnish 15,000 postal-owned vehicles (3,000 per year) on rural routes from 2009-2013. The Postal Service objected to inclusion of this MOU in the Award and especially sought to defer any commitment of acquiring such vehicles to a later time period. The Panel has determined that such MOU should be included in the Award.

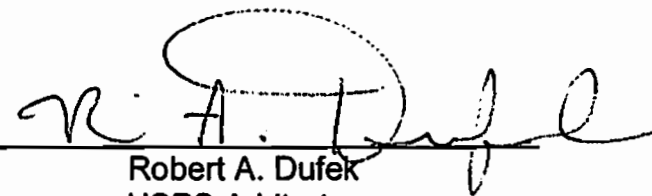
K. Other Provisions

The new agreement shall incorporate the changes set forth in the Tentative Agreement reached by the parties on December 8, 2006, except insofar as this Award modifies and/or supplements those terms. Otherwise, all provisions of the 2000 National Agreement, as extended, including all Memoranda of Understanding under the

2000 National Agreement, as extended, which have not been dealt with in this Award shall remain in full force and effect.


Herbert Fishgold
Neutral Chairperson


Dennis D. Clark
NRLCA Arbitrator


Robert A. Dufek
USPS Arbitrator

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES POSTAL SERVICE
AND THE
NATIONAL RURAL LETTER CARRIERS' ASSOCIATION**

Revenue Generation

Postal customers are experiencing a changing business environment which provides alternate access channels to satisfy their postal needs. As a result, the stamp purchasing practices of customers residing on rural routes have changed.

In an effort to better utilize the current stamp stock weekly credit during the term of this Agreement, the parties agree that, in addition to serving the stamp sale needs of its customers, rural carriers will engage in revenue generating initiatives.

Initiatives for generating revenue would include rural carriers submitting leads from business customers currently utilizing our competitors; increasing customer awareness of our products and services; and informing customers of the USPS website usps.com in an attempt to promote alternate access to Postal products and services.

The parties agree that employee involvement in generating revenue is an essential element in ensuring the success of the Postal Service.

Separate Statement of NRLCA Arbitrator Dennis Clark

As the NRLCA member on this tri-partite arbitration panel, I have joined my fellow Arbitrators in issuing the foregoing Award, setting the terms of the parties' 2006-2010 National Agreement. In doing so, it is important that I add the following comments.

In December 2006, the Association leadership and the Postal Service agreed to a tentative agreement to replace the 2004-2006 Extension to the National Agreement, which expired on November 20, 2006. Pursuant to the Association's Constitution, the tentative agreement was submitted to a ratification vote by the membership. A narrow majority voted against ratification and the tentative agreement failed.

The Association and the Postal Service returned to the national bargaining table and continued negotiations, earnestly seeking to again reach an agreement. Unfortunately, those efforts failed and, on June 7, 2007, impasse was declared and the parties were headed to interest arbitration. At the time of impasse, both parties had on the table final proposals concerning wages, COLA, health benefits, EMA, time standards, and various work rules. Those proposals were carried forth to the arbitration by both sides.

The Postal Service advanced several proposals which, in the Association's view, would seriously erode the rural craft's existing wage, benefit, and EMA provisions, and would set rural carriers even further behind their fellow crafts. The Postal Service sought to establish a locality-based pay system, which would afford rural carriers different wage levels based on their geographic location. The Service also proposed the abolishment of COLA. Under those proposals, over 70% of rural carriers would receive lump sum payments only,

and no increase to their wage base under the life of the agreement. The Postal Service further proposed a 2% per year increase in employee health benefit contributions, reductions in annual and sick leave accrual, and a changed EMA formula which would reduce its overall EMA costs (some carriers would get increases, but many more would incur decreases). Finally, the Postal Service sought downward adjustments in several of the evaluated system time standards, which, collectively, would seriously reduce overall evaluations. (In the agreements reached with each of the other crafts, the long-standing wage structure, COLA, and leave accruals remained. Each of the other crafts agreed to 1% annual increases in employee health benefit contributions.)

The Association, on the other hand, sought in arbitration general wage increases substantially in excess of those agreed to by the other crafts, in order to significantly narrow the long-standing gap between the wages of rural carriers and city carriers. We sought not only preservation of the existing COLA provision for career rural carriers, but also enhancement of that provision with respect to non-career relief carriers -- by rolling COLA increases into their base wage rates semi-annually, the same as exists for career carriers. The Association also sought preservation of existing health benefit contributions, and annual and sick leave accrual policies, and proposed significant increases under the existing EMA formula.

With respect to time standards, from the beginning of national negotiations in September 2006, the Association strongly urged the Postal Service not to proceed with proposals to further reduce standards. The value of the evaluated

system to rural carriers is largely that of a time incentive. Rather than work a normal eight-hour day on the clock as the other crafts do, the evaluated system allows carriers who are willing to work at greater than a normal pace to achieve a time incentive – they are able to go home early if they finish under the evaluated time. While some of the existing standards may be too tight and some may be too loose, collectively they result in what the Association believes is a minimally acceptable incentive on average. The Association firmly told the Postal Service that further significant reductions in standards, as it was proposing, would seriously erode the existing incentive in the evaluated system. We explained that at that point, the value of the evaluated system to rural carriers – the value as an incentive system – may very well vanish altogether, and that a system which has served both parties well for decades may come to an end. In order to try to protect the evaluated system from further erosion of its existing incentive – and possibly to protect its very continuation – the Association advanced proposals of its own to increase certain time standards.

In the months preceding commencement of the interest arbitration, the Association spared no expense in preparing support for its proposals and defense against the Postal Service proposals. The Association's national officers, its legal staff, and its outside consultants spent thousands of hours researching and preparing exhibits and testimony (the NROs spent weeks in residence in Alexandria working on these tasks). Outside consultants – professors of economics, industrial engineering, and statistics, and transportation specialists – were retained, who prepared numerous reports and studies on

every facet of our proposals. Scores of rural carriers in over 75% of the states participated in studies. Our expert consultants were prepared to testify on all of our core proposals. They were prepared to make presentations on the substantial similarity between rural carrier and city carrier positions, on the significant labor cost savings the Postal Service realizes from the rural carrier craft and the evaluated system compared to the other crafts (including savings annually in supervision costs, overtime, and grievance processing), on the incentive nature of the evaluated system, on all of our standards proposals, and on EMA. Prior to commencement of the arbitration hearing, an extensive pre-hearing brief was prepared and presented, together with numerous exhibits, to the Neutral Arbitrator, setting forth in detail the Association's position and proposals.

Thus, from the Association's side, we entered the interest arbitration with ambitious hopes and expectations of achieving significant gains over our past negotiated agreements, over the 2002 Wells Award, and over the unratified tentative agreement. We also entered the arbitration with firm determination not to lose ground to any of the Postal Service's wage, benefit, EMA, or time standards proposals.

The Association was not alone in its expectations. The Postal Service likewise spent considerable resources and time in preparations to advance its many proposals at arbitration – in research, exhibit and witness preparation, and retention of expert consultants to assist in studies and testimony. Rest assured, the Postal Service also approached the interest arbitration with every intention of

vigorously presenting its proposals and attempting to achieve success on its proposals – proposals which, like those of the Association, varied significantly from the terms of the December 2006 tentative agreement.

It was in this context that the parties commenced arbitration proceedings on October 29, 2007. As discussed in his opinion, early on during that opening week of hearings, Arbitrator Fishgold informed, first his fellow panel members, and then the parties themselves, that any expectations of an award with significant departures in core economic terms from the December 2006 tentative agreement would not result in the favor of either party. He informed us that any award he issued would be circumscribed substantially by the terms agreed to between the Postal Service and the other three crafts, as well as the tentative agreement reached with the Association – that any award in this case setting the terms of the NRLCA's agreement would not vary from the bottom line labor costs resulting from those agreements.¹

In light of his pronouncements, Arbitrator Fishgold informed the parties that proceeding with their intended evidentiary presentations on most of the proposals being advanced by each party would not be productive. He informed the parties that, to the extent they mutually desired to alter the terms of the tentative agreement, he would be guided by their wishes, but that he would not make such value choices on his own. Therefore, with Arbitrator Fishgold's active

¹ Those four agreements varied from one another in certain respects, but the bottom line was that each represented substantially similar increases in labor costs to the Postal Service, on a per employee basis. The differences in general increases reflected in those agreements were the product of each union's willingness and ability to make trade-offs and afford the Postal Service labor cost savings by agreeing to various work rule and other changes. In pre-impasse negotiations, the Postal Service sought cost-saving trade-offs in the form of time standard reductions, an area to which the Association was not willing to go, as discussed above.

assistance, the parties engaged in frank discussions leading to suggested modifications to the tentative agreement, and to what would be necessary to achieve those modifications. The foregoing Award reflects the result of those efforts.

I share in the disappointment of the Association's national officers, and in what I expect will be the disappointment of the membership at large, that we were not able to achieve more in this interest arbitration. I know that our expectations were high and our preparation monumental.² I also believe that, from its perspective, the Postal Service had its expectations dashed as well. However, in light of the principles that guided Arbitrator Fishgold, as he forcefully and repeatedly articulated them to both sides, and in light of what could reasonably be expected as a result of his approach, I believe that the Association fared relatively well. It did, at least, achieve improvements in those areas which received the greatest feedback in the tentative agreement ratification process – the level of general wage increases and of EMA, and the problems associated with applying a new change of address time standard to situations where the Postal Service's new initiatives have not yet been fully implemented.



Dennis D. Clark
NRLCA Arbitrator
December 4, 2007

² The Award here was particularly driven by the particular factual setting facing Arbitrator Fishgold – the existence of three other ratified agreements as well as the tentative agreement – as he has explained in his Opinion. As he also has explained, nothing in his Opinion or the Award precludes the Association from seeking improvements such as we sought here in future negotiations or arbitration proceedings.