

GUIDELINES (for Union use)

Grievances re: Denial/Delay of Representation

Issue Statement: Did the Employer violate Contractual provisions, including but not limited to, Articles 3, 5, 15, and 17 of the Collective Bargaining Agreement; the 3-10-77 Charters Memo; and the National Labor Relations Act, by failing to provide timely Union representation as requested? If so, what is the remedy or what shall be the remedy?

FACTS TO CONSIDER: (provide evidence as necessary)

- Is there proof the grievant requested representation?
- Do time keeping records prove the steward(s) and grievant were available to meet?
- Is there a history of representation delay/denial?
- Why was representation requested:
Possible Contract violation?
Pre-discipline investigation (i.e. Weingarten issue)?
Postal Inspection investigation?

ARGUMENTS/CITATIONS:

- Remember, the union has the burden of proving the Contract was violated.
- Article 17.3 assures the steward of the right to meet with potential grievants.
- The 3/10/77 Charters memo (M-00458) states the long-standing USPS policy to provide timely Union representation.
- The NLRA, incorporated into the Contract by Article 5, assures Collective Bargaining rights, including the right to representation.

If applicable:

- Weingarten rule; Joint Contract Administration Manual: an employee has the right to a representative when the Employer is conducting an interview the employee reasonably believes may lead to discipline. The representation must be requested.

REMEDY: (Remember, on page 41-15 of the JCAM the parties have acknowledged that compensatory remedies are appropriate in some cases.)

Compensate the grievant with the equivalent of one pay period union dues for the flagrant violation; and/or other appropriate remedy.

UNITED STATES POSTAL SERVICE
CENTRAL REGIONAL OFFICE
Chicago, Illinois 60699

M 00458

OUR REF:

DATE: 10 March 1977

SUBJECT: Article XVII, Section 3

TO: DISTRICT DIRECTORS
EMPLOYEE AND LABOR RELATIONS
CENTRAL REGION

The subject of the release of stewards under Article XVII was recently discussed at a regional labor/management meeting. At this time, we wish to reiterate our position on the interpretation of that portion of Article XVII, Section 3 which reads: "Such requests (e.g., the right of a steward to interview the aggrieved employee, supervisors, and witnesses during working hours) shall not be unreasonably denied."

"Reasonable", in our opinion, dictates that in most cases, the grievant and steward should be able to discuss the grievance without delay but 95 percent of the time with no more than a two-hour delay.

While circumstances will sometimes necessitate a delay of more than two hours, normally the delay should not extend beyond the tour of duty in which the request is made. This determination will be based on the availability of the parties involved and service conditions.

Please see that this interpretation is disseminated to all levels of supervisors at the installations within your district.

David H. Charters
David H. Charters
Regional Director
Employee and Labor Relations