

CHAPTER 7

INDUSTRY SPECIFIC ARBITRATION ISSUES:  
THE POSTAL SERVICE

I. LABOR RELATIONS IN THE POSTAL SERVICE:  
A PROCESS IN DISREPAIR

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Effective dispute resolution in the workplace poses special challenges to society at large as well as to management, labor, and the third party employed to decide issues under challenge. The use of arbitration in lieu of the courts to resolve labor disputes was a positive development in the civilized world—resolving issues faster and at less expense than court litigation. At this stage of our experience with dispute resolution processes, we know that to be effective, all of the involved parties must engage with the purpose of minimizing disputes and using the formal process of mediation-arbitration as a last resort. The employer must set aside the natural inclination to use unrestrained authority; the union must be disciplined in its efforts to push issues beyond the scope of its agreements; and the neutral third party must gain the trust of the parties and view its role in a broader context than the immediate issue presented for ruling. In an imperfect world, inhabited by imperfect people, perhaps one expects too much in expecting the labor-management relationship to be perfect in its use of dispute resolution, but we must continually strive for improvement. I applaud the Academy for providing this opportunity to explore options for change.

When all else fails and the parties are unable to resolve their disputes, we turn to you, the arbitrator, for your wisdom and decision. For the reasons that I will address in more detail below, we in the postal community use your services extensively and often

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improperly. Too often you are called on to do what we are unwilling to do ourselves.

I will begin with my thoughts on how you can better serve the parties. Obviously we wish that you would find for the union on all important issues. But more seriously, I ask that you view your role as arbitrators in a perspective much broader than the individual cases presented to you. Because we are unable to resolve so many issues within our resolution process, your decisions often shape our relationship.

In arbitration, each side seeking an advantage places the issues before you with the sole objective of winning. This is to be expected, and in most industries your plain ruling is all that is required. But in an industry that relies so heavily on your decisions to resolve labor disputes, rulings limited to the presented facts are not sufficient and are often the source of continued litigation. As arbitrators and mediators, you must on occasion look beyond the specific issue before you, as complex as many are, and understand that your response in the instant case will play an important role in the continuing relationship between the parties. If you permit us to continue our adversarial relationship before you, you encourage us to continue that behavior outside of your presence.

Your impact on our relationship extends beyond your decision: Each decision is a piece of the mosaic that forms our labor relationship. There are times when, even though a departure from your standard prose is not required by the facts and the evidence, a single sentence addressing the parties' refusal to resolve their problems themselves can send a clearer message than the wording of the final award. For every decision you reach that leaves a future argument to be made, you can be assured that the parties' advocates will find a way to continue their behavior.

I am aware of the restraints of your profession, but, as professionals and mutually agreed upon members of our panels, you are more than a decider of single issues. Until we in the postal community find a way to resolve our problems internally, your decisions will determine our relationship.

#### **Why Is the Postal Labor-Management Relationship in Such Disrepair?**

Labor peace should best serve the interest of both labor and management. In a perfect world, the mere presence of an uninvolved

third party to decide issues in dispute would suffice to create a stable relationship. But the postal community is not such a perfect world, and issues abound that require your continuing presence to decide our labor disputes. Many factors contribute to the existing labor climate, and I will list but a few.

First, because postal labor has no right to strike, postal management has no incentive to focus on the resolution of disputes. The obligations of productivity, cost, and efficiency invariably dominate other concerns in labor matters, and the dispute resolution process becomes the only vehicle of communication.

Second, the union's obligations are equally challenging in limiting its disputes to issues addressed in the parties' agreement. Too often, unions view themselves as responsible for enforcing employee expectations as compared to negotiation and enforcement of the agreement. Any dispute resolution process will be and often is overwhelmed if it is used as a means to address employee dissatisfaction instead of contract enforcement.

Finally, the U.S. Postal Service is unique. To place the postal dispute resolution process in perspective, one must begin with recognition of its size and complexity. There is no comparable collective bargaining relationship in North America. The employment by a single employer of 750,000 employees in 38,000 separate facilities presents major challenges to the parties in resolving disputes. Added to the overwhelming size is the model adopted by the parties for collective bargaining. The Postal Service is the only industry that negotiates a single contract at the national level governing wages, hours, and working conditions, applying equally to offices with three employees and those with 15,000 employees. These unique features make it extremely difficult to apply the normal experiences in labor-management dispute resolution processes to the Postal Service. The 70,000 arbitration case backlog of the American Postal Workers Union (APWU) is a reflection of the combination of an adversarial relationship and the unusual features of our industry.

Our union represents 375,000 postal employees, the largest single bargaining unit with collective bargaining rights in the country. We are more than twice as large as any other bargaining unit except for our sister union, the National Association of Letter Carriers, which ranks second on the national listing, and United Parcel Service (UPS), which ranks third.

Furthermore, the 375,000 employees within our bargaining unit function under 220 different job titles. Thus, a dispute within a single job function is magnified by the number of employees affected, and these individual opportunities for problems are spread over 220 job classifications.

### **Postal Labor-Management Relationships Are Not Influenced by the Fear of a Strike**

The determination by Congress to deny postal employees the legal right to withhold their labor has been a contributing factor in the present state of postal labor relations. While this decision to deny postal employees the right to strike may represent sound government policy, it tilts the scale in favor of the employer in the consideration of labor issues. Management has the opportunity to dismiss disputes no matter what their basis without the possibility of labor unrest. This leads to frustration on the part of the union and the filing of retaliatory grievances, further clogging the system.

### **What Can We Do to Improve the System?**

Having spent the past 30 years of my postal career directly involved in dispute resolution, I speak from experience and many years of frustration. I have joined with postal management in exploring many, many processes to resolve issues and reduce the level of disputes, and I have reached mutual agreements on more issues at the national level than all of the other officers of all of the postal unions combined. But despite this success in interpreting and applying the agreement, our efforts to improve the system have failed. I think that the problem is not the process but the people. Any system design can and will be exploited by the parties to their advantage, unless the individuals responsible for actions that generate disputes, including those responsible for initiating disputes, have clear incentives that place a premium on labor peace.

Our model of nationwide collective bargaining removes the local and regional parties from any responsibility or special knowledge of the terms of agreement. Thus, local managers and local union officials are divorced from the bargaining and feel no

obligation to honor compliance. We must involve these local and regional representatives either in the bargaining process or, as an alternative, hold them strictly accountable for their actions.

**Is It Reasonable to Expect Both Parties to  
Require Discipline of Their Subordinates?**

As the president of our union, my influence is limited to decisions made at the national level. Our locals and our field representatives are independently elected and are responsible to their respective constituencies. As a result, the union president does not have the authority of postal management to discipline or remove representatives who abuse the system. Generally, these facts are dismissed and considered to be nothing more than the union's refusal to demand internally the same conditions it expects of the employer. But this autonomy of APWU locals is absolute and can only be changed through the democratic process. I can lower the decibel level of our disagreements and use the bully pulpit to preach labor peace, and I have, but there are few effective tools to enforce local problem solving.

**Labor Disputes Are Best Addressed  
Before Decisions Are Finalized**

Management has many more tools available to apply uniform policies to dispute resolution, and they must use those tools in the same fashion applied to productivity, cost, and efficiency. It is at the decisionmaking level where success or failure influences the level of disputes. The U.S. Postal Service employs 25,000 supervisors who make constant decisions subject to challenge by union officials. Only a small percentage of these millions of decisions are challenged by the union. And how many of these decisions would be challenged if the decision had been altered before implementation? Once a supervisor or manager makes a decision, institutional loyalty comes into play, resulting in the automatic management support of the initial decision, followed by a torrent of grievances filed in frustration.

In future symposiums, perhaps a focus could be directed at the process of making the decisions that lead to disputes.

### **Is the Union Equally to Blame for Bad Labor Relations?**

To address the overriding question of postal disputes effectively, we must begin with the rejection of equal blame. The employer acts, and the union reacts. A labor dispute is the result of a union reaction attempting to undo a management decision. Of the 70,000 pending grievances, 60 percent will be resolved with a modification of the original action. This situation fully supports a finding that the original action could have been modified before implementation. In addition, from the time of the initial decision to the decision of the arbitrator, normally a period of one year or more, management has the option of unilaterally modifying the original decision and satisfying the union's challenge. But most U.S. Postal Service-APWU disputes are deferred until the eve of the hearing or are decided by the arbitrator.

### **Conclusion**

In summation, the resolution of postal disputes is burdened by a number of factors unique to the U.S. Postal Service:

1. its size,
2. the number of individual job classifications,
3. the denial of the right to strike,
4. national bargaining,
5. supervisory decisions without review, and
6. responsibility

Mediation, arbitration, a combination of the two, or a process yet defined are means used by the parties when they are unable or unwilling to resolve labor disputes. In a mature and responsible relationship, less attention is placed on dispute resolution than on the processes applied to the original decision, how the decision is made, and how one determines its consistency with the parties' agreements. Only when the parties have abandoned the possibilities of a mature relationship does the focus turn to the resolution of disputes. Unless the parties commit to achieving a mature relationship following at least some of the ideas outlined in this paper, we will not solve the problems that have led to the current situation—70,000 disputes awaiting your decisions.