



National Postal Mail Handlers Union

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TO: Local Presidents
National/Regional CAD

FROM: Paul Hogrogian, National President *PVH*
T.J. Branch, Manager, CAD *JB*

RE: Step 4 Settlement on Progressive Discipline for MHAs

The NPMHU and the Postal Service have reached a Step 4 settlement on the important issue of the meaning of “just cause” when the Postal Service imposes discipline on Mail Handler Assistants. The operative paragraph of the settlement agreement, quoted below, provides that discipline of MHAs must be both progressive and corrective in nature rather than punitive, and that determining whether the level of disciplinary action taken is appropriate must be based on the individual facts and circumstances of each case:

Discipline for an MHA . . . does not generally have to be issued in the same progressive manner as discipline issued to a career employee. However, an appropriate element of just cause is that discipline should be progressive and corrective in nature rather than punitive. When management removes or otherwise disciplines an MHA, determining whether the disciplinary action is appropriate must be based on the individual facts and circumstances of each case.

The background of this settlement agreement is complicated, but deserves discussion. In its 2010 National Agreement, the APWU negotiated with the Postal Service to allow for the hiring of noncareer Postal Support Employees or PSEs. In that agreement, the parties agreed that PSEs could be disciplined or removed within the term of their appointment “for just cause,” provided that the PSE had completed 90 work days or 120 days of employment in the preceding 6 months. In an MOU dated February 27, 2013, those parties further agreed as follows with regard to PSE discipline:

- The parties recognize that removal is not the only mechanism available to correct deficient behavior when warranted.
- The full range of progressive discipline is not always required for PSEs; however, the parties agree that an appropriate element of just cause is that discipline be corrective in nature, rather than punitive.

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In January 2013, the NALC and the Postal Service had the terms of their 2011 National Agreement determined through interest arbitration, creating a new, noncareer employee known as the City Carrier Assistant or CCA. As part of that award, the Arbitration Board determined that discipline of CCAs also must be based on “just cause,” but that award went on to provide that “the concept of progressive discipline will not apply, [although] discipline should be corrective in nature.”

Less than two months later, the Fishgold Arbitration Award determined the terms of the 2011 National Agreement between the NPMHU and the Postal Service. With regard to MHAs, the Fishgold Award followed the language of the APWU contract on discipline of PSEs, and did not reject the concept of progressive discipline, as had the NALC award.

As MHA disciplinary cases were heard in Regional arbitration, the decisions were confusing and often reached contradictory conclusions. Eventually, the issue of discipline for MHAs was referred to the National Level at Step 4, and the particular cases that were referred largely presented the most extreme arguments raised by NPMHU advocates. In particular, the Postal Service appealed grievances where the Local Union representatives had claimed that all of the steps of progressive discipline followed for career Mail Handlers necessarily had to be applied to MHA discipline, even if those steps might include – by means of contract and/or past practice – multiple letters of warning, multiple suspensions, and multiple last chance agreements prior to removal. At the same time, the Postal Service placed all MHA discipline arbitrations on hold pending the outcome of Step 4 discussions or arbitration at the National level.

With this background, the NPMHU at the National level insisted on a settlement agreement that recognized “just cause” for MHA discipline as including several independent matters: (1) that any discipline of MHAs has to be progressive; (2) that any discipline of MHAs has to be corrective in nature, rather than punitive; and (3) that any discipline of MHAs must depend on the facts and circumstances presented by each individual case. The attached Step 4 agreement includes each of these requirements. At the same time, the settlement recognizes that discipline of an MHA does not generally have to be issued in the same progressive manner as discipline issued to a career employee.

Any cases being held on this issue should be processed as promptly as possible.

Please disseminate this information as you deem appropriate. Should you have any questions, please contact your Regional or National CAD Representatives.

cc: Mark A. Gardner, National Secretary-Treasurer
National Executive Board