



## NATIONAL-LEVEL DISPUTES

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In this issue, I want to give a brief overview on a few of the National cases that were recently decided, as well as some that are currently pending on the arbitration docket at the National level. These cases include:

**Promotion Pay** — This pending case concerns a change to the promotional pay rules contained in the Employee and Labor Relations Manual (ELM). In April 2017, the Postal Service sent notification that it intended to make changes to the ELM that affected promotion pay under Schedule 2 of the mail handler pay scales, which is the wage scale applicable to career employees hired after February 15, 2013.

Under the old Schedule 1, which still applies to all mail handlers hired prior to February 13, 2013, employees who are promoted to Level 5, usually through the bidding process, have been governed by the rule found in ELM Section 422.323, which means the employee “receives a promotional increase equal to two times the most prevalent step in the former grade.” After this amount is added to the mail handler’s former base wage, if the amount falls between two steps of the new grade (Level 5), the employee is slotted at the next higher step in the grade and a new step waiting period begins unless the employee is being repromoted.

According to the Postal Service, this long-standing rule has unintended consequences when applied to the new career pay scale (Schedule 2), which covers all career employees hired after the effective date of the 2013 Fishgold Arbitration Award. The step increases in the new pay scale are significantly larger (approximately \$1434 per step, compared to the most prevalent step in the old scale of approximately \$300), and thus a promoted employee receives an increase of almost \$3000. The Postal Service claims that such a pay increase was unintended and therefore is an unwarranted windfall to the employee.

The Postal Service has therefore amended the language for promotions in ELM, Section 422.323(a)(2) to provide the following: “The Grade 4 employee receives a promotional increase that brings the salary to the same step in Grade 5. The promoted employee will retain the waiting period step credit that had been earned prior to the promotion in calculating the next step increase date.” In addition, the Postal Service has initiated a “hold in place” rule as follows: Employees who were promoted to either Step AA or A will have a one-time

additional step waiting period of 52 weeks, minus time in step credit at the time of the most recent promotion. Employees who were promoted to Steps B through O will have a one-time additional step waiting period of 104 weeks, minus time in step credit at the time of the most recent promotion.

The NPMHU position is that the new step placement rule creates changes in wages, hours, or working conditions that must be bargained with the Union and cannot simply be implemented unilaterally under Article 19. This new rule is also not fair, reasonable or equitable and is inconsistent and in conflict with our National Agreement.

**Safety Ambassador Program** — This pending dispute concerns the Postal Service’s roll out of a new program called the Safety Ambassador Program. According to the Postal Service, the purpose of the program was to create a standardized program based on the existing locally developed Safety Captain Programs. The Safety Ambassador Program is supposed to focus on employee engagement, training, communication, hazard identification/abatement, and accident reduction.

Upon implementation of the program, however, the Union found that selection of the Ambassador in each facility is at the sole discretion of the installation head and is not selected by the Union or with any Union input. The Local Safety and Health Committee established under Article 14 of the National Agreement also is not part of the program, and the program is being implemented in a manner that is interfering with pre-existing safety programs and procedures.

The NPMHU position is that the implementation of this Safety Ambassador Program is a violation of Articles 5, 14, and 19 of the National Agreement.

**Carryover of MHA Discipline** — In a recently issued decision dated October 14, 2020, the NPMHU prevailed in its National arbitration against the Postal Service over whether the Postal Service may consider or rely upon discipline issued to an MHA if that employee is later being disciplined after he or she has been converted to career. The key conclusion of Arbitrator Das’ award was that “former MHAs who are converted to career positions start afresh for disciplinary purposes.”

Central to his decision was Arbitrator Das’ finding that MHAs who convert to career status are hired as “new employees.”

Moreover, while the parties did expressly set out in the National Agreement those limited circumstances in which an employee's time as an MHA does carry over upon conversion (e.g., relative standing for establishing initial seniority ranking), the parties "did not provide for carryover of the disciplinary record." In short, when the parties wanted time as an MHA to carry over after conversion, "they did so expressly."

For those reasons, Arbitrator Das concluded that "discipline issued to an employee while employed as a noncareer Mail Handler Assistant (MHA) may not be considered or cited in determining whether to issue discipline to the employee after his or her conversion to full-time career status." Only one narrow exception may exist to this new rule: where an MHA is subject to a notice of removal at the time set for conversion to career status, that removal process might have to be completed before the employee is converted to career.

## RI-399 NATIONAL JURISDICTIONAL ARBITRATIONS

**Small Parcel Sortation System (SPSS)** — National Arbitrator Sharnoff issued his decision on the merits of the SPSS dispute on November 30, 2020. Not unexpectedly, the arbitrator rejected the claims filed by both the NPMHU and the APWU, and upheld the Postal Service's August 7, 2015 revised jurisdictional determination for jobs on the SPSS.

Mail Handlers remain the primary craft for dumping and loading mail onto the SPSS and for sweeping the SPSS, while the Clerks remain the primary craft for the singulating and facing work on the SPSS and for that portion of the sweeping needed for ergonomic rotation. The arbitrator reached this conclusion for various reasons, including by analogizing to the APPS and APBS machines:

*[T]he Arbitrator finds, in these circumstances, that the USPS, in reaching its determination to award the "singulating"/"facing" work on the SPSS to the Clerk Craft, was acting in a manner which was consistent with its determination of the award of jobs on these two machines, with the assignment of such duties to the Mail Handlers on the APPS in light of the limited amount of such work to be performed and to the Clerks on the APBS in light of the more significant amount of such work required. To that extent, the Arbitrator finds that the USPS, in awarding the "singulating"/"facing" work on the SPSS to the Clerks as the Primary Craft, based in part on the assignment of such work to the Clerks on the APBS, was not acting in a manner which was arbitrary or an abuse of its discretion.*

**Advanced Facer and Canceled System (AFCS)** — The next National RI-399 issue to be arbitrated are the three cases

## APPLICATIONS BEING ACCEPTED FOR POSITIONS IN THE CONTRACT ADMINISTRATION DEPARTMENT

The NPMHU may be looking to add full-time representatives to its Contract Administration Department (CAD) during the coming months and years. To ensure that there are qualified and available applicants to choose from to fill any positions, the NPMHU is asking any interested Union representatives or members to send in a "statement of interest" to the National Office. Applicants should be willing to relocate. Any statement of interest should include a listing of qualifications, a description of experience in contractual matters, positions held within the Union, any special projects, duties or accomplishments, training programs attended, education/degrees, and other pertinent information deemed appropriate. This can be in the form of a simple letter describing such qualifications, or as formal as a resume. All submissions should be sent to:

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NPMHU Contract Administration Department  
815 16th St, NW, Suite 5100  
Washington, DC 20006

All submissions will be retained in confidence at the National Office. Please include your current mailing address, an e-mail address and your preferred telephone number.

concerning the AFCS. Hearing dates were held on December 8th & 9th, 2020, with briefs to be filed shortly.

**Automated Delivery Unit Sorter (ADUS)** — After the AFCS, the next National case to be heard will be the jurisdictional determination issued by the Postal Service concerning the ADUS. Both unions have appealed that decision. It is currently scheduled for January 13<sup>th</sup> & 14<sup>th</sup>, 2021.

The ADUS is described as being similar to the APBS, but it does not have an induction belt and is a straight line sorter. The machine requires two operators to manually face and place the mail on the conveyor belt. While on the conveyor, it is weighed, scanned, and sorted. This machine can sort up to 4,200 parcels an hour.

**Universal Sorter System (USS)** — During February 2021, the parties will turn to the jurisdictional determination that the USPS made on the USS. The USPS issued a National Craft Determination stating the "the primary craft operation of the USS is the Mail Handler Craft." The APWU filed a National Dispute challenging that determination.

The USS processes non-machinable objects (NMOs), which are inducted on the system through a parcel dumper. The system singulates and orients the parcels and barcodes are read by a six-sided scan tunnel and camera system. The USS is modular and can be configured based on available floor space, with the number of outputs ranging from 4 to 18, and can scan and sort up to 2,200 parcels per hour.

If you have any questions about any of these cases or others that are pending, please talk to your union official.