



Local Memorandum of Understanding

Between

United States Postal Service

And

Local 300 Mid Island, National Postal Mail
Handlers Union Division of Laborers'
International Union of North America AFL-
CIO

September 21, 2019 – September 20, 2022

LOCAL MEMORANDUM OF UNDERSTANDING

2019-2022

ARTICLE 30 SECTION A

ADDITIONAL OR LONGER WASH-UP PERIODS

1. Mail Handlers will be allowed a wash-up time of ten (10) minutes before lunch and twelve (12) minutes at the end of the tour.
2. On overtime, twelve (12) minutes at the end of overtime.
3. No mail handler will be required to work during wash-up period, except in emergency situations, which are not expected to be of a recurring nature.

ARTICLE 30 SECTION B

GUIDELINES FOR THE CURTAILMENT OR TERMINATION OF POSTAL OPERATIONS TO CONFORM TO LOCAL AUTHORITIES OR AS LOCAL CONDITIONS WARRANT BECAUSE OF EMERGENCY CONDITIONS

1. In the event that there is curtailment or termination of postal operations to conform with orders, advice, or local authorities or as conditions warrant because of emergency conditions, the following shall apply:
 - a. Consideration will be given to, but not limited to such acts of God as fire, civil disorder, flood, inclement weather such as blizzards, snowstorms and extremes in temperature, as well as tornado warnings and conditions.
 - b. In the event of bomb threats or scare, tornado warnings, riots, and/or other emergencies of like nature, the following shall apply:
 - b.1. Bomb Threats and Scare. All Mail handlers bargaining unit employees will be evacuated from the premises until such time as appropriate authorities deem the facility safe.
 - b.2. Tornado Warnings. All personnel will be moved to the safest part of the building under the guidelines of Tornado Procedure, handed down by and in accordance with the Federal Safety Program.
 - b.3. Riots. No employee will be forced to work if civil disorder is in the area where (s)he resides.

ARTICLE 30 SECTION B (CONTINUES)

2. Consideration shall be given to, but not limited to the following environmental conditions within the buildings:

a. Building temperature and climate control, power failures, lack of water, sanitary and restroom facilities, asbestos removal or other situations of like nature.

b. Every effort will be made to inform the Branch President, if practicable, as to the closing of a building area due to deck resurfacing, painting, or other situations of a like nature. In the absence of the Branch President, every effort will be made to inform the tour steward on duty.

c. Biological or Suspected Disease; Findings of the safety office regarding any biohazard will be provided to the National Postal Mail Handlers Union electronically.

3. When local emergency conditions warrant wholesale closing of businesses and local industries, and if public transportation and/or highway and street passage is sharply curtailed, management will make every reasonable effort to disseminate information to the Mail Handler craft employees regarding orders and advice or local authority or as local conditions warrant, and to make announcements through television, radio and other media.

4. Management will make every reasonable effort to insure that Inside temperature of a building is maintained in accordance with Maintenance Series Handbook MS-49 in effect, in 1990 and/or Federal Law.

5. Whenever emergency conditions exist as referenced above, the installation head shall give the greatest consideration to approval of administrative leave in accordance with ELM 519.1 et.seq.

6. Whenever any of the above conditions exists, the ranking union official on duty will be notified and apprised of the situation. As well, the Branch President will be notified and apprised of the conditions by telephone or email as soon as practicable depending on the situation.¹

¹ Arbitrator Pecklers (B11M-1B-I 14008004) dated, May 27, 2014

ARTICLE 30 SECTION C

FORMULATION OF LOCAL LEAVE PROGRAM

1. Management will let off as many Mail handlers as possible in each section on each tour on a first come basis, with all leaves being approved / disapproved within forty-eight (48) hours. When requests are received within the same tour time frame, seniority will prevail.

2. Union officials on Union business, or while attending conventions, will not be included in the item 1 (above) in determining approving leave request.

3. All leave not approved or disapproved by Management within forty-eight (48) hours will automatically be granted. Incidental leave will be submitted on a Form 3971 in triplicate with carbons. One copy will be returned immediately to the employee with the supervisor's signature on it to signify receipt of Form 3971 only. When the leave requested is for less than one (1) week and for other than emergency situations, the Form 3971 will be submitted to the MDO no more than fifteen (15) working days in advance.

4. Any employee requesting and being approved for annual leave and is short of those hours to cover such approved leave, upon his or her return, shall not be subject to being charged without leave (AWOL) for the time not covered

5. A Mail Handler employee at his/her option may cancel leave at any time and may not be forced to take leave or the remainder of the leave.

6. If an employee cancels their vacation week, more that fourteen (14) days prior to the start of that vacation week, the week shall be posted for the other mail handler craft employees. The senior mail handler bidding shall be awarded the vacant week, providing they have sufficient annual leave to cover the request and have not already utilized the maximum annual leave allowed during choice period. Refer to National Agreement for anything canceled less than fourteen (14) days.

6 (a) : Closed Vacation Weeks will be posted for bid upon the employees separation from the Postal Service, or transfer out of the installation of the successful bidder providing that the current complement would not increase the percentage of mail handlers off.

ARTICLE 30 SECTION C (CONTINUES)

7. When practicable, upon cancellation of leave, Management will post vacated leave opportunities on the appropriate bulletin boards and will grant such leave to other employees if requested.

8. For choice vacation picks, employees will pick by seniority order from the first pay period after the new leave year begins in January until February 15 of each year unless mutually extended, or changed.

9. An employee substantially bidding to another tour after the picks are made will keep his/her initial pick(s) if desired.

10. Picks will be conducted by tours at 185 West John Street, and by tours at Mid Island Facility as demonstrated herein:

185 West John Street

Mid Island Facility

Tour 1

Tour 1

Tour 2

Tour 2

Tour 3

Tour 3

11. For the purpose of mail handler craft employees allowed off during non-choice period, see Article 30 Section H.

12. Same day request for annual leave will be responded to as expeditiously as possible from date and time of submission.

13. All mail handlers who are detailed off their tour and/or station shall select their vacation pick (when commences) on the tour where their duty assignments/position originates. The employee will count towards the vacation percentage in his permanent section where he/she holds a bid.

ARTICLE 30 SECTION D

THE DURATION OF CHOICE VACATION PERIOD

1. The vacation period will commence the first full pay period in May and will end the last full week in September. Plus the weeks that include President's Day, Easter Sunday, Columbus Day, Thanksgiving Day and the week between Christmas Day and New Years Day.

ARTICLE 30 SECTION E

THE DETERMINATION OF THE BEGINNING DAY OF AN EMPLOYEE'S
VACATION PERIOD

1. Vacation period shall start on the first day of the employee's basic workweek. Exceptions may be granted by agreement among the employee, the union and the employer.

ARTICLE 30 SECTION F

WHETHER EMPLOYEES AT THEIR OPTION MAY REQUEST SELECTIONS
DURING THE CHOICE VACATION PERIOD, IN UNITS OF 5 OR 10
DAYS OR 15 DAYS

1. Employees will pick choice vacation slots by seniority order in rounds under the following options: In accordance with the National Agreement:
 - a. In the first round of picks, employees may choose either one FIFTEEN (15) day pick or one (1) combination pick of FIVE (5) and TEN (10) days at the employee's option.
 - b. For each subsequent round of picks, employees may choose in increments of either one (1) FIVE (5) day pick or (1) TEN (10)day pick, if available.
2. An employee at his or her option may forego a choice during any round of picks.
3. At any time, an employee may cancel a vacation choice. When practicable, Management will then make that choice available to other employees by posting the vacated choice on appropriate bulletin boards.
4. Requests for annual leave throughout the year shall not be unreasonably denied.
5. Exceptions to the above provisions may be made by mutual consent of the parties.
6. Mail Handler Assistants can apply for vacation selections during the choice vacation period. Such request shall not be unreasonably denied (vacation requests shall be in accordance with the Fishgold award of 2.15.2013)²

² Pre-Arbitration settlement dated, April 30, 2014

ARTICLE 30 SECTION G

WHETHER JURY DUTY AND ATTENDANCE AT NATIONAL OR STATE
CONVENTIONS SHALL BE CHARGED TO THE CHOICE VACATION
PERIOD

1. Jury duty, military leave and attendance at national, state or regional assemblies or meetings shall not be charged to choice vacation periods.
2. None of the above, nor an alternative vacation choice, shall be counted against the percentage allotment of Mail handlers during a choice vacation period.
3. Employees serving on Jury Duty may, at their option, change their schedule in accordance with Employee and Labor Relations Manual, Section 516.44.

ARTICLE 30 SECTION H

DETERMINATION OF THE MAXIMUM NUMBER OF EMPLOYEES WHO
SHALL RECEIVE LEAVE EACH WEEK DURING THE CHOICE VACATION
PERIOD

1. The maximum number of employees off during the choice and non-choice vacation period on leave shall be:
 - 15% - First full week in May through the last full week in September, plus Easter week and Thanksgiving week.
 - 12% - Weeks containing President's Day, Columbus Day and the week between Christmas and New Year's Day.
 - 8% - During non-choice period (non-choice period is everything outside choice period excluding December).
2. Management, to the greatest extent possible, shall grant additional employees annual leave during this period.
3. Union officials on Union business leave code shall not be included in this percentage.
4. Vacation percentages (fractions) shall be rounded-up to the next whole number, e.g. (.5 and above go to the next whole number.)

ARTICLE 30 SECTION I:

THE ISSUANCE OF OFFICIAL NOTICES TO EACH EMPLOYEE OF THE
VACATION SCHEDULE APPROVE HIM/HER

1. Official notice of vacation schedule approved for Mail handlers shall be supplied by Management, with two (2) copies to the Branch President, and posted on Postal Bulletin Boards no later than the last day in February.

ARTICLE 30 SECTION J:

DETERMINATION OF THE DATE AND MEANS OF NOTIFYING
EMPLOYEES OF THE BEGINNING OF THE NEW LEAVE YEAR

1. Notice to all employees as to the day the new leave year begins shall be posted on Official Bulletin Boards upon receipt of official notification. A copy to be furnished to the Union.

ARTICLE 30 SECTION K

THE PROCEDURE FOR SUBMISSION OF APPLICATIONS FOR ANNUAL
LEAVE DURING OTHER THAN CHOICE VACATION PERIOD

1. Requests for annual leave, throughout the year, shall not be unreasonably denied and will be in accordance with item C.
2. All leave requests not acted upon by Management within forty-eight (48) hours shall be considered automatically granted.
3. Employees are not barred from making requests for increments of five (5) days or less including parts of individual workdays.

ARTICLE 30 SECTION L

WHETHER OVERTIME DESIRED LISTS IN ARTICLE 8 SHALL BE BY
SECTION AND/OR TOUR

- 1A. The Overtime Desires Lists shall be established by tour and buildings in the following manner:
 - a. Non-Scheduled (Extra Day) List.
 - b. Before Tour List.
 - c. After Tour List.

ARTICLE 30 SECTION L (CONTINUES)

1B. Tour and Building is defined as follows:

185 West John Street, and Mid Island Facility.

<u>185 West John Street</u>	<u>Mid-Island Facility</u>
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Tour 1	Tour 1
Tour 2	Tour 2
Tour 3	Tour 3

2. Overtime Desired List shall be on a rotating basis by seniority order with employees signing up in accordance with the provisions set forth in Article 8.5.A of the National Agreement.

3. Employees may remove their names from any of the Overtime Desired Lists at any time during the quarterly period.

4. The Branch President shall be provided with two (2) copies of the Overtime Desired Lists on a quarterly basis.

5. In those instances when all employees on the OTDL for a tour are not needed, the immediate supervisor shall honor an employee's request to be passed over providing if in complying with this request, the list is exhausted or a sufficient number of workers is obtained. If a sufficient number of workers is not obtained, then the immediate supervisor will assign overtime to those on the volunteer list in order of juniority, after full compliance with the provisions of Article 8 of the National Agreement are met.

6. Mail handler craft overtime work may not be given to other craft employees.

7. Exceptions may be granted upon permission of the ranking Union official.

8. Day of Rest Overtime will be by tours and buildings. If an insufficient amount of Mail handlers are available from one building, they may be drawn from the remaining buildings of the facility.

9. Required/Voluntary overtime will be announced over the loud-speaker on all tours. Every attempt will be made to notify in advance, if known, prior to the employee's lunch period and/or one (1) hour before end of tour. It is understood, however, that special circumstances (not of a recurring nature) may arise

ARTICLE 30 SECTION L (CONTINUES)

in which it is impossible to notify employees within these time limits and that at times the needs of the Service shall be met.

10. Due to the different or staggered begin tours, Mail handlers who would have clocked-off (ET) shall not be precluded from working overtime (end of tour) in the event an employee is working overtime and is not on the overtime desired list. The employee at his option shall assume the remaining portion of the overtime or continue to exit the tour.

11. An employee on the OTDL, who bids or is reassigned to another tour or building, will notify management, in writing, that he or she wishes to be placed on the OTDL within four (4) working days of his or her arrival on the tour/building. Management will honor the employee's request.

12. An employee on the OTDL, who changes bids on the same tour will remain on the OTDL.

13. The Union shall administer the Overtime Desired Lists.

ARTICLE 30 SECTION M

THE NUMBER OF LIGHT DUTY ASSIGNMENTS TO BE RESERVED
TEMPORARY OR PERMANENT LIGHT DUTY ASSIGNMENTS

1. Any ill or injured employee will be given consideration for light duty work when the need arises. Every reasonable effort shall be made to provide light duty work within the guidelines set forth by the employee's physician or other medical practitioner as long as such work does not displace or is not to the detriment of a full time career regular Mail handler properly holding a bid position within a duty assignment and is consistent with good practices.

2. Every effort shall be made to keep the employee on his or her own tour of duty and hours of work with the same days of rest. Days of rest for light duty will not be unilaterally changed. Normally, the Union will be informed of any modification in an employee's work schedule.

ARTICLE 30 SECTION M (CONTINUES)

3. Consistent with Management's obligation under Article 13 of the National Agreement, if no light duty work is available within the Mail handler craft, every effort shall be made to assign the employee requesting light duty in other crafts.

4. Requests for light duty will be made to the Manager, Distribution Operations.

5. When it has been established that an employee has been placed in a permanent Light Duty status and cannot perform his or her bid assignment, the job shall be posted in accordance with current procedures. Management shall then consult with the local Union prior to the reassignment of the permanent Light Duty employee and it will be mutually determined as to the feasibility of leaving the employee on his/her tour as long as said assignment has no adverse affect on service needs until he/she has an opportunity to bid a job.

6. The Union shall be furnished with copies of all Light/Limited Duty correspondence every AP.

7. It is understood that an employee is not on Light Duty status when their only restriction is that, they cannot work more than eight (8) hours per day.

8. All employees who have been approved for light duty will provide updated medical documentation as needed. When an employee returns to full duty, they will provide medical documentation indicating they no longer have any medical restrictions.

9. Employees from other crafts will not be assigned light duty in the mail handler craft that would be to the detriment of mail handler craft light duty employees.

ARTICLE 30 SECTION N

THE METHOD USED IN RESERVING LIGHT DUTY ASSIGNMENTS SO THAT NO REGULARLY ASSIGNED MEMBER OF THE REGULAR WORKFORCE WILL BE ADVERSELY AFFECTED.

1. No career full time regular will be displaced or adversely affected by a light duty assignment.

ARTICLE 30 SECTION N (CONTINUES)

2. Requests for light duty assignments must be accompanied by medical, dental, optical, or chiropractic documentation from a physician, chiropractor or other certified medical practitioner. Management may assign light duty upon request of an employee without certification for periods of less than an eight hour tour or until such documentation arrives if it is on the way.

ARTICLE 30 SECTION O

IDENTIFICATION OF ASSIGNMENTS THAT ARE TO BE CONSIDERED
LIGHT DUTY

1. Generally, light duty will entail, but is not limited to a reduction in the amount of weight lifted, reduced bending, stooping, pushing, pulling, walking, standing or other modification of the range of movement normally required and as specified and documented in Section N.2 above.

2. The mutual determination of whether or not Light Duty is available will be an individual determination by local Management taking into consideration the following points:

- a. Every reasonable effort will be made to assign employees requesting Light Duty to recognized Light Duty functions, as long as such work is available to be performed and such assignment in no way displaces or is to the detriment of a full time regular Mail handler holding a bidded position.
- b. The employee's type of disability and expected duration of disability will be considered in determining whether or not available Light Duty Mail handler work is available.
- c. The Union will be advised of light duty work of less than eight (8) hours.

3. Light Duty employees shall be eligible to bid to another position as set forth in the National MOU in effect.

4. Light duty employees shall be eligible for overtime work, if it is within his or her limitations in accordance with the National MOU in effect.

ARTICLE 30 SECTION P

IDENTIFICATION OF ASSIGNMENTS COMPRISING A SECTION WHEN
IT IS PROPOSED TO REASSIGN WITHIN AN INSTALLATION
EMPLOYEES EXCESS TO THE NEED OF A SECTION

1. In the event that employees' assignments are declared excess to the needs of the section, the employees shall be assigned to other sections by juniority. When the section is opened again, they shall go back by seniority according to the need. A section shall be defined as a job within an area.
2. In accordance with operational needs, any duty assignment abolished/reverted shall be conducted in juniority order, leaving the senior duty assignment holders, if any.
3. For temporary excessing of employees from a section, employees will be excessed in juniority order. If and when the section re-opens, employees will be returned by seniority order.
4. When the reporting tour starts, it will not displace the tour that is on-duty, unless there is a mail handler assistant/casual working a job that a full time regular on the oncoming tour holds as a bid. Tour shall be defined as:

Tour One:	8pm to 3:59am
Tour two:	4am to 11:59am
Tour three:	12pm to 7:59pm

ARTICLE 30 SECTION Q

THE ASSIGNMENT OF EMPLOYEE PARKING SPACES

1. Management shall make a reasonable effort to provide adequate parking to Mail handler craft employees on a first come basis. No spaces will be reserved for bargaining unit employees except for handicapped parking, which will be appropriately designated by an above-ground sign and blue paint designations on the pavement.
2. Reasonable effort will be made to provide parking for the ranking Union official at the 185 West John Street Facility.
- 2(a): The Hicksville Post Office at 185 West John Street will provide one parking space for the Union within the yard area.
3. Should adequate parking become a problem, the Union shall be appraised.

ARTICLE 30, SECTION R

THE DETERMINATION AS TO WHETHER ANNUAL LEAVE TO ATTEND
UNION ACTIVITIES REQUESTED PRIOR TO DETERMINATION OF THE
CHOICE VACATION SCHEDULE IS TO BE PART OF THE TOTAL
CHOICE VACATION PLAN

1. Annual leave for Union officials to attend union activities shall not be charged against choice vacation periods.

ARTICLE 30 SECTION S

THOSE OTHER ITEMS WHICH ARE SUBJECT TO LOCAL NEGOTIATIONS
AS IN THE FOLLOWING ARTICLES

1. In accordance with the provisions set forth in Article 12.3B5, in order to cause a duty assignment to be reposted due to a change in duties or principal assignment area, the duty assignment must be changed to another building, or the specific duties would have to change by at least fifty (50) percent after consultation between the Branch President or ranking Union Official /Representative and the Installation Head/Designee.
2. A change or reposting of a duty assignment will be made only after consultation with the Branch President or designee³.
3. In accordance with the provisions set forth in Article 12.3C, posting, and bidding for preferred duty assignments shall be installation wide.
4. Employees awarded a new bid (duty assignment) in the same or higher level shall be given every opportunity to qualify for the new duties if necessary. Management shall provide the Union with a roster of all Mail Handlers who are qualified for higher level assignments every six (6) months.

³ Arbitrator Amy Itzla (B11M-1B-I 14008023) dated, June 13, 2014

ARTICLE 30 SECTION S (CONTINUES)

5. In accordance with the provisions set forth in Article 12.3E3e, those employees subject to excessing from a section and not covered by Article 25 shall be as follows, casuals, mail handler assistants, other crafts, part-time regulars, full-time regulars, and group leaders⁴.

a. The order of movement from a section will be by juniority. When more than one employee is being excessed simultaneously or the whole section is being excessed simultaneously, and there is more than one section that will be gaining the excessed employees, those employees shall be given the choice of which section they will choose to work by seniority order.

b. When the section as described in (a) above re-opens, the recall to the section of previously excessed employees shall be by seniority order.

6. Sections per tour will be defined for reassignment as follows:

(a): Plainview (b): 185 West John Street and
(c): Mid Island PDC Facility with:

(1) : Platform - East Deck; (2): Platform - South Deck;
(3) : Automation Room; (4): Linear Sorter and Low Cost Tray
Sorter; (5): APBS; (6): Flat Sorters; (7): 010/AFC;
(8): Manual; (9): Belts; (10): Robot (RCS); (11): Flat Sequencing
System [FSS]; and (12): Platform - West Deck

7. Accordance with the provisions set for in Article 13.3, light duty assignments shall be determined by consultation with the Union.

ARTICLE 30 SECTION T

LOCAL IMPLEMENTATION OF THIS AGREEMENT RELATING TO
SENIORITY REASSIGNMENTS AND POSTING

POSTING OF DUTY ASSIGNMENT:

1. The Branch President shall be notified of when any and all vacancies exist in the Mail handler duty assignments and given prior notice to review all vacant and newly created positions.

⁴ Pre-Arbitration Settlement dated, May 09, 2014

ARTICLE 30 SECTION T (CONTINUES)

Additionally, the Branch President shall receive one (1) copy of Mail Handler vacancies for review and one (1) copy of Mail Handler duty assignments awards prior to posting. Copies shall be provided to the Branch President by either hard copy or email.

2. When it is proposed to revert or abolish any duty assignments, the Branch President or designee shall be apprised of this intent in advance.

3. No employee will hold a "utility or labor pool" duty assignment. Utility and/or Labor Pool duty assignment is defined as multiple functions (more than 1) unrelated to the primary bid assignment.

4. All duty assignments posted for bidding shall contain a specific description of assigned duties in addition to other information set forth for bidding in Article 12.3D.

5. All employees shall have a fixed basic workweek schedule. Every reasonable effort shall be made by local management to maximize the number of assignments wherein the rest days for Mail handler employees are consecutive.

6. The Holiday Schedule shall include a list of required Holiday personnel, Holiday volunteers, and Overtime volunteers with a copy provided to the Union.

SENIORITY

1. Management shall provide the Union with (hard copy or email) with one (1) copy of the Mail handler seniority list, one (1) copy a Mail Handlers Assistant List and one (1) copy of Mid Island's casual complement list whenever requested. This includes copies of jobs lists.

2. Overtime Desired Lists will be administered on a rotating basis by seniority on each specific tour of duty.

3. When it is proposed to voluntarily or involuntarily place employees from another craft into the Mail handler bargaining unit, it shall be done in accordance with the provisions of Article 12.2F1 and 2.G3 of the National Agreement. No Mail handler shall lose craft seniority in those circumstances.

SENIORITY (CONTINUES)

4. All vacation picks will be made in rotating rounds on the basis of seniority.

5. For bidding purposes, there will be one (1) seniority list for Mail handlers regardless of how many buildings Mid Island P&D Center operates from.

6. Employees shall be notified of any vacancies if they provide a self-addressed envelope to the Tour Superintendent or his designee for use in sending notification. Upon receipt of notification, employees shall submit their bids as per the National Agreement.

7. Full time Mail handler employees shall have preference before Casuals, Mail Handler Assistants, and employees without bid assignments for duties within a section.

8. DETAILS:


(a) : Any and all temporary details not for the personal convenience of an employee in excess of ten (10) working days will be posted for bid among Full Time Regular Mail handlers utilizing a simplified posting procedure and awarded to the senior qualified Full Time Regular Mail handler in the Hicksville and Mid Island Facilities. It is understood that Section 434.622 (h) of the ELM shall apply.


(b) : When, in fact, details in excess of ten (10) work days are to be utilized, the Mail handler Branch President is to be advised. It is further agreed that whenever a temporary detail exists for ninety (90) or more days, the local Union will be advised of local Management's long-term intentions taking into consideration whether or not justification exists to create a full time regular assignment which would be posted for bid at the Mid Island P & D Center and the Hicksville NY Post Office.

REASSIGNMENTS

1. No mail handler properly holding a duty assignment or position within a duty assignment shall be bumped or displaced from that position or duty assignment.
2. No employee will replace a Mail handler having been Temporarily excessed from his/her duty assignment.
3. When it is determined that employees will be temporarily excessed from a section and reassigned to another section or sections, the excessing shall be made in juniority order.
4. When more than one employee is being excessed from a section and the reassignments are being made to more than one section, those employees being reassigned shall have the option of choosing the section of reassignment on the basis of seniority.
5. The designated agent of the Mail handlers Union (BP) upon request may be detailed to Tour 2 in order to properly conduct Labor/Management relations. This agent will be provided a change of schedule to include rest days.

This Memorandum of Understanding is entered into on October 20, 2020 at Mid Island P & D Center, Melville, NY, between the Representatives of the United States Postal Service, and the designated agent of the National Postal Mail Handlers Union, A Division of the Laborers' International Union of North America, AFL-CIO, pursuant to the Local Implementation Article of the 2019 National Agreement. This Memorandum of Understanding constitutes the entire agreement on matters relating to local conditions of employment.


DATE 10/20/20
John Onken,
Acting Senior Plant Manager
UNITED STATES POSTAL SERVICE


DATE 10.20.20
Robert A. Lussos
Branch President
NATIONAL POSTAL MAIL HANDLERS UNION

REGULAR ARBITRATION PANEL

In the Matter of the Impasse Arbitration)
between)
UNITED STATES POSTAL SERVICE,)
and)
NATIONAL POSTAL MAIL HANDLERS)
UNION, AFL-CIO)

GRIEVANT: Class Action
POST OFFICE: Mid-Island P & DC
USPS CASE NO. B11M-1B-I 14008004
NPMHU CASE NO. UITEM30B

OPINION & AWARD

BEFORE: MICHAEL J. PECKLERS, ESQ., ARBITRATOR

APPEARANCES:

For the Postal Service:

Steve Terzulli, Labor Relations Specialist
Joseph DiChiara, Manager Labor Relations

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For the Union:

Robert Lussos, Branch President

N.P.M.H.U. NE REGION

Place of Hearing: Melville, New York
Date of Hearing: April 29, 2014
Date of Award: May 27, 2014
Relevant Contract Language: Article 30
Contract Year: 2011 – 2016
Type of Grievance: Contract (LMOU Impasse)

AWARD: For the reasons set forth in greater detail in the body of this AWARD, the Union's impasse proposal is awarded and **SUSTAINED**.

Date of Award: 5/27/14



MICHAEL J. PECKLERS, ESQ., ARBITRATOR

I. BACKGROUND OF THE CASE

Following the recent local negotiations, on November 6, 2013, Branch President Robert Lussos filed an appeal of impasse item Article 30.B.6 of the LMOU. That section is captioned GUIDELINES FOR THE CURTAILMENT OR TERMINATION OF POSTAL OPERATIONS TO CONFORM TO LOCAL AUTHORITIES OR AS LOCAL CONDITIONS WARRANT BECAUSE OF EMERGENCY CONDITIONS. The existing language of Section B6 provides that: "[w]henever any of the above conditions exists, the ranking union official on duty will be notified and apprised of the situation." The language proposed by the NPMHU which led to the impasse included the foregoing, but added: "*[a]s well, the Branch President will be notified and apprised of the conditions by either telephone or email as soon as practicable depending on the situation.*" [emphasis added].

In making the amended language proposal, the Union's position was that the Branch President must be advised of circumstances that will curtail or terminate Postal operations and/or when emergency conditions exist that affect the Union's rank and file membership. The NPMHU reasoned that furthermore, the Branch President does intermittently receive emails or telephone calls when situations under Section B occur. Therefore, to agree with the Union's proposal would not place an unreasonable burden on the Postal Service, according to the NPMHU. For its part, Management objected and indicated that it would continue to notify the ranking Union official on duty.

Following the execution of the NPMHU's IMPASSE ARBITRATION APPEAL on the 6th of November, and the case's assignment to the parties' Regular Panel, I was designated to serve as Arbitrator. A hearing was convened at the Mid-Island P & DC in Melville, New York, on April 29, 2014, which proceeded in an orderly manner. At that time, the advocates were provided with a full opportunity to introduce relevant and admissible documentary evidence; to engage in spirited

oral argument; and to examine and cross-examine sequestered witnesses under oath. No post-hearing briefs were filed, with the record declared closed at the completion of the hearing. This AWARD is issued in timely fashion, pursuant to the 30 day time period prescribed by Article 15.4.B.9 of the National Agreement.

II. ISSUE AS FRAMED

Should the Union's proposed amendment to the LMOU concerning the notification of the Branch President language be incorporated into Article 30B.6?

III. RELEVANT CONTRACT LANGUAGE [Joint Exhibit 1]

* * *

ARTICLE 30 LOCAL IMPLEMENTATION

* * *

Section 30.3 Grievance-Arbitration Procedure

- A. All proposals remaining in dispute may be submitted to final and binding arbitration, with the written authorization of the Union or the Vice President, Labor Relations. The request for arbitration must be submitted within 10 days of the end of the local implementation period. However, where there is no agreement and the matter is not referred to arbitration, the provisions of the former local memorandum of understanding shall apply, unless inconsistent with or in conflict with this Agreement. The Employer may challenge a provision(s) of a local memorandum of understanding on 'inconsistent or in conflict' grounds only by making a reasonable claim during the local implementation process that a provision(s) of the local memorandum of understanding is inconsistent or in conflict with new or amended provisions of the current National Agreement that did not exist in the previous National Agreement, or with provisions that have been amended subsequent to the effective date of the previous National Agreement. If local management refuses to abide by a local memorandum of understanding on 'inconsistent or in conflict' grounds and an arbitrator subsequently finds that local

management had no reasonable basis for its claim, the arbitrator is empowered to issue an appropriate remedy.

LOCAL MEMORANDUM OF UNDERSTANDING [Joint Exhibit 2]

* * *

ARTICLE 30 SECTION B

GUIDELINES FOR THE CURTAILMENT OR TERMINATION OF POSTAL OPERATIONS TO CONFORM TO LOCAL AUTHORITIES OR AS LOCAL CONDITIONS WARRANT BECAUSE OF EMERGENCY CONDITIONS

1. In the event that there is curtailment or termination of postal operations to conform with orders, advice, or local authorities or as conditions warrant because of emergency conditions, the following shall apply:
 - a. Consideration will be given to, but not limited to such Acts of God as fire, civil disorder, flood, inclement weather such as blizzards, snowstorms and extremes in temperature, as well as tornado warnings and conditions.
 - b. In the event of bomb threats or scare, tornado warnings, riots, and/or other emergencies of like nature, the following shall apply:

* * *

2. Consideration shall be given to, but not limited to the following environmental conditions within the buildings:

* * *

6. Whenever any of the above conditions exists, the ranking union official on duty will be notified and apprised of the situation.

* * *

[emphasis provided in originals]

IV. CONTENTIONS OF THE PARTIES

The National Postal Mail Handlers Union

The Union is attempting to amend LMOU Article 30, Section B.6 to include the requirement that the Branch president be notified and apprised of these situations which include a wide range of events from Acts of God to bomb scares. The NPMHU contends that when these conditions exist, there is a need that the Branch president be notified. This is not an unreasonable burden upon Management, as the rank and file are affected and this happens on an occasional and infrequent basis if at all. It is also disrespectful and embarrassing, as in the past the president has sometimes been told what happened by members.

Postal Management however, simply does not want to handcuff itself with this requirement. The Postal Service argued that 1) this was not needed; 2) they did not want to do it; 3) while a side bar agreement would be considered they did not want to put this into the LMOU. In the past, Management has intermittently notified the Branch President of these situations and in order to be able to assist, he must know. The Union also recognizes that depending on the Act of God or the condition that is present, immediate notification may be impossible. For this reason, the Union said "as soon as practicable."

In closing, in this age we have text messages and emails. No letter has to be sent, and there might be some sensitive issues involved. The Branch president is accordingly entitled to be treated at the same level as Postal Management. The Postal Service has argued that they let the shop steward know but often they do not receive all the information and Management is the custodian of this information. They therefore should be able to notify the Branch president and may need his assistance. The proposal is reasonable and because compelling reasons have been presented by the NPMHU, the Union's language change should be granted.

The United States Postal Service

We are here because a Union impasse item was unable to be resolved at the bargaining table. Both parties bargained in good faith to resolve the issue. The Union is the moving party for this impasse item and the burden of proof in justifying that its proposal should be adopted is upon the NPMHU. Management's position is that there is no evidence the current language results in any unfairness or inequity. The current language that the Union seeks to add to does not need to be added. It is clear and unambiguous and the Union has been unable to show that this resulted in any difficulty.

The requested language is not for the long term good of its employees, nor can the Union argue that it motivates their work. It will however create an additional burden for the Postal Service. During any time of curtailment of Postal operations to conform to local authorities or because of emergency conditions, Postal Management's priority is to deal with the emergency at hand. In any of these situations the Union is being notified in accordance with the LMOU provisions. In seeking this additional language, the Union creates an unnecessary burden during an emergency situation. If the ranking Union official is notified, it is a reasonable expectation that the ranking Union official contacts the Union president and disseminates the information. If this is not happening, it is an internal Union issue that must be addressed by the Union within its ranks, not by adding unnecessary language to the LMOU.

The current language does not harm any member or place the Union at any disadvantage. However, if the additional language is added to the LMOU it is highly likely that the Union would file grievances in the event that the ranking official was notified but the Branch president was not notified "as soon as practicable." During local negotiations the Union did not provide any documentation to support their reason for change. Management made a counter proposal that the present

practice as written in the LMOU was sufficient and this was Management's position. The Union has been unable to provide any evidence of such a compelling need or reason to add the additional language. Because the existing language is clear and unambiguous, if it isn't broken don't fix it. The Service therefore respectfully requests that the Union impasse be denied.

V. STATEMENT OF THE CASE

The United States Postal Service ("the Postal Service" or "Management") and the National Postal Mail Handlers Union ("the NPMHU" or "the Union") are signatories to a National Agreement, entered in evidence as Joint Exhibit 1. The LOCAL MEMORANDUM OF UNDERSTANDING has been marked as Joint Exhibit 2, with the impasse moving papers identified as Joint Exhibit 3. The parties have stipulated that there are no jurisdictional challenges to arbitrability and that the case is properly before me. As the moving party seeking to modify the existing LMOU language, the NPMHU assumes the initial burden of making a *prima facie* showing of entitlement to the desired modification by a preponderance of the credible evidence. Should that occur, the burden will shift to the Postal Service to rebut the same. Upon a careful analysis of the evidence of record, with full consideration given to the respective arguments, I find that the Union's impasse appeal must be **SUSTAINED**.

Branch President Lussos testified without contradiction that there have been intermittent situations where he has been contacted by Postal Management either via telephone or email concerning emergency conditions or the curtailment or termination of Postal operations. Additionally, by virtue of the fact that he works Tour 2, he is the ranking Union official who would be contacted in such an event. Adoption of the proposed language would therefore merely codify what has taken place on different occasions before. Mr. Lussos went on to explain that there have been countless grievances filed concerning the notification issue in the context of

suspicious powder spills. It also strikes me as contractually inconsistent that per Section 2.b. every effort will be made to inform the Branch president, if practicable, as to the closing of a building due to deck resurfacing or painting, but not in any other more serious situation.

Management objects to the inclusion of the proffered language essentially based upon the age old axiom, *if it isn't broken don't fix it*. However, the Union has demonstrated that it is entitled to the contractual modification in this instance. Notice is taken that in making this proposal, the NPMHU recognized that the notification to the Branch president need not be instantaneous as it would be made *as soon as practicable depending on the situation*. This undercuts the Postal Service's position that an unnecessary burden is being created during an emergency situation. It could therefore be possible that Management would notify the ranking Union official on duty initially and thereafter the Branch president. The Postal Service could also obviously opt to notify both via phone, email or text. One of Management's concerns raised at hearing, was that the as soon as practicable language could trigger a rash of grievances based on the interpretation of that phrase. However, that is speculation at best, and a test of reasonableness would be employed in any event.

In closing, I do not subscribe to the Postal Service's position that the obligation to notify the Branch president would constitute an undue hardship. The mere impact of sending an email or placing a phone call once an emergent situation has been abated pales in comparison to the potential bargaining unit impact in safety situations like the anthrax scare, of which Mr. Lussos should be aware. Based upon the foregoing considerations, the Union's proposed contract language modification request is **SUSTAINED**.

VI. CONCLUSION

The Union has established by a preponderance of the credible evidence that its proposal to amend the LMOU language of Article 30.B.6 incorporating notification of the Branch president should be granted.

VII. AWARD

THE NPMHU PROPOSED CONTRACT LANGUAGE MODIFICATION REQUEST IS SUSTAINED AND AWARDED. ARTICLE 30 SECTION B.6 OF THE LMOU SHALL BE MODIFIED TO READ WHENEVER ANY OF THE ABOVE CONDITIONS EXISTS, THE RANKING UNION OFFICIAL ON DUTY WILL BE NOTIFIED AND APPRISED OF THE SITUATION. AS WELL, THE BRANCH PRESIDENT WILL BE NOTIFIED AND APPRISED OF THE CONDITIONS BY TELEPHONE OR EMAIL AS SOON AS PRACTICABLE DEPENDING ON THE SITUATION. UPON RECEIPT OF THIS AWARD, THE BRANCH PRESIDENT SHALL PROVIDE HIS PHONE AND EMAIL CONTACT INFORMATION TO THE MANAGER OF LABOR RELATIONS FOR FORWARDING TO THE APPROPRIATE MANAGEMENT OFFICIALS. THIS CONSTITUTES THE ENTIRE AWARD IN THIS CASE.

Dated: May 27, 2014
North Bergen, New Jersey


MICHAEL J. PECKLERS, ESQ., ARBITRATOR

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration

between

UNITED STATES POSTAL SERVICE

and

**NATIONAL POSTAL MAIL
HANDLERS UNION, AFL-CIO**

GRIEVANT: Class Action

POST OFFICE: Mid-Island P & DC

CASE NO: B11M-1B-I 14008023
UITEM3 0S

BEFORE: Amy Lynne Itzla, Esq.

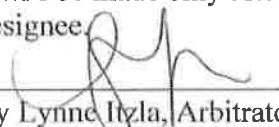
APPEARANCES:

For the U.S. Postal Service:	Steve Terzulli, Labor Relations Specialist Daniel Pinto, Acting Labor Relations Specialist Joseph DiChiara, Manager, Labor Relations
For the Union:	Robert Lussos, Branch President
Place of Hearing:	Mid-Island P & DC 288 Grumman Road West Bethpage, NY
Date of Hearing:	May 9, 2014
Record Closed:	May 15, 2014 (briefs received)
Date of Award:	June 13, 2014
Contract Years:	2011-2016
Type of Grievance:	Impasse

AWARD SUMMARY

The Union proposed a change in the language of Article 30, Section S-2 of the parties' Local Memorandum of Understanding which would cause the current provision, "A change or reposting of a duty assignment will be made only after consultation with the Branch President or other ranking Union Official or Representative," to state, "A change or reposting of a duty assignment will be made only after consultation with the Branch President." Based upon the record presented, the language will be modified as follows:

A change or reposting of a duty assignment will be made only after consultation with the Branch President or designee.



Amy Lynne Itzla, Arbitrator

OPINION

The United States Postal Service (“the Service”) and the National Postal Mail Handlers Union, AFL-CIO (“the Union”) are parties to a collective bargaining agreement (“the Agreement”). Article 30, Section 30.2 of the Agreement, Items for Local Negotiations, provides, in part, that:

There shall be a 30 consecutive day period of local implementation which shall occur within a period of 60 days commencing September 1, 2013 on the 20 specific items enumerated below, provided that no local memorandum of understanding may be inconsistent with or vary the terms of this Agreement: *(only the relevant item is included herein)*

- S. Those other items which are subject to local negotiations as provided in the following Articles:

Article 12, Section .3B5
Article 12, Section .3C
Article 12, Section .3E3e
Article 12, Section .4
Article 12, Section .6C4a
Article 13, Section .3

Article 30, Section 30.3, Grievance-Arbitration Procedure, provides, in part, that:

- A. All proposals remaining in dispute may be submitted to final and binding arbitration, with the written authorization of the Union or the Vice President, Labor Relations.

In accordance with the above-referenced provisions, this Arbitrator was designated to hear and decide this matter. The parties appeared before the undersigned for an arbitration hearing on May 9, 2014.

The parties had a full and fair opportunity to present evidence and argument, to engage in the examination and cross-examination of sworn witnesses, and to otherwise support their respective positions. At the close of the hearing, the parties agreed to submit their closing arguments in the form of post-hearing briefs. As instructed, the parties’ submissions were post-marked on May 14, 2014. They were received by the Arbitrator on May 15, 2014.

ISSUE

The issue presented for arbitration is as follows:

Should Article 30, Section S-2, of the Mid-Island P & DC Local Memorandum of Understanding (“LMOU”) be changed to reflect the Union’s proposed language?

The current language of Article 30, Section S-2, reads as follows:

2. A change or reposting of a duty assignment will be made only after consultation with the Branch President or other ranking Union Official or Representative.

The Union’s proposal, during local negotiations, was to delete that portion of the language that reads “or other ranking Union Official or Representative,” so that Article 30, Section S-2, would read as follows:

2. A change or reposting of a duty assignment will be made only after consultation with the Branch President.

BACKGROUND

The Memorandum of Understanding, incorporated into Article 30, Section 30.3, Grievance-Arbitration Procedure, on page 173 of the Agreement, adds to the provision, in part, that:

2. In the event that any issue(s) remain in dispute at the end of the thirty (30) consecutive day local implementation period, each party shall identify such issue(s) in writing.

The parties confirmed the impasse item, in writing, on October 30, 2013. That document was signed by Michael Alexander, Senior Manager for the Service, and Robert

Lussos, Branch President of the Union. The Service's response to the proposal, identified in the document, reads as follows:

Post Office Position: Not Necessary

The document included the basis for the Union's proposal, as follows:

Union's Position: The Branch President is currently the only one that is involved in assignment changes; the (minor) new language supports this understanding that the BP is the only union official to make a decision regarding changes in craft assignments. [footnote] Again; the BP needs to be knowledgeable about how its assignments are affecting the rank and file membership. To agree with the union's proposal would not place an unreasonable burden on the Postal Service.

[footnote] The Postal Service agrees to the proposal and changes in assignments are conducted between the Plant Mgr and the Branch President (only).

DISCUSSION

It was the Union's proposal, during local negotiations, which led to this impasse. In an interest arbitration proceeding, the party seeking a modification of the status quo bears the burden of proof in demonstrating the basis and need for the change. Therefore, the burden is on the Union to support its proposal and its position that the language of Article 30, Section S-2 be changed to reflect the desired language. The Union's Branch President, Robert Lussos, served as the negotiator for the Union during local negotiations. He was the individual who appealed the impasse item, seeking arbitration of the issue. In addition, Mr. Lussos served as the Union's advocate at the arbitration hearing. The Union did not offer any witnesses in the presentation of its direct case during the arbitration hearing and rested on its opening statement, the joint case file, and its closing argument. The Service called Mr. Lussos as its first witness. After considering the less formal nature of arbitration, including the Arbitrator's discretion in applying rules of evidence, along with the Arbitrator's interest in establishing a complete record upon which to base a decision, it was determined that the Service would be permitted to elicit direct testimony from Mr. Lussos, as a sworn witness.

Mr. Lussos testified that the Branch President should be the only individual with whom a consultation should be conducted prior to a change or reposting of a duty

assignment. He explained that, although the Union's proposal contained a "minor" deletion, it was "large in principle." Mr. Lussos acknowledged that he had not presented any documentation to support the proposal, such as grievances related to the current language. He further conceded that there is no evidence that the current language has caused any problem on the workroom floor, to any employees or to the Union, because there have been no issues in the past. The motive behind the Union's proposal was to avoid any situation that could "make the Branch president uncomfortable," based on his belief that there could be potential problems.

Joseph DiChiara, the Manager of Labor Relations for the Long Island District, testified regarding his involvement as a member of the three-person negotiation team for the Service in the local negotiations. He explained that the Service responded to the Union's proposal by stating "not necessary" because there had never been any problems with the current language, which had been in effect "for some time," and, "if it's not broke, don't fix it." The Union did not present any documents or other evidence to demonstrate any difficulties with the language. The Service did not see a need to make a counterproposal to the Union's proposal.

The Service did not dispute the Union's assertion that the amended language would serve as an accurate representation of the past practice. On the contrary, the document signed by the parties upon reaching impasse, described above, included a relevant footnote. The footnote stated that, "The Postal Service agrees to the proposal and changes in assignments are conducted between the Plant Mgr and the Branch President (only)." However, the Service argues that there is no reason to change the language just to reflect the practice. The reason for the current language, and the Service's interest in retaining it, lies with the alternatives it provides to the Service in the event that the Branch President is unavailable. Although the situation has not previously arisen, the Service has the ability, if ever necessary, to consult with some "other ranking Union Official or Representative." The Service has no plan to utilize that alternative to consulting with the Branch President, but, in the event there is urgency with regard to "a change or reposting of a duty assignment," and the Branch President is unavailable, due to being away, or otherwise, the Service can move forward.

An arbitrator's role in interest arbitration is different from her role in grievance arbitration. In grievance arbitration, the arbitrator's authority is limited by the "four corners" of the collective bargaining agreement, which the parties have agreed shall

govern their relationship. In interest arbitration, the arbitrator must “search for what would be, in the light of all the relevant factors and circumstances, a fair and equitable answer to a problem which the parties have not been able to resolve by themselves.” New York Shipping Ass’n, 36 LA 44, 45 (1960), as cited in “How Arbitration Works,” Elkouri and Elkouri. The established function of the interest arbitrator has long been described as follows: “We take it that the fundamental inquiry, as to each issue, is: what should the parties themselves, as reasonable men, have voluntarily agreed to?” Twin City Rapid Transit Co., 7 LA 845, 848 (1947), as cited in “How Arbitration Works.”

This Arbitrator has found a resolution to the impasse which simply and clearly encompasses the concerns of both parties. Amending the provision, as follows, serves the interests of both parties:

A change or reposting of a duty assignment will be made only after consultation with the Branch President or designee.

This language mirrors similar language found throughout the LMOU. For example, Article 30, Section S-1, refers to the “Installation Head/Designee.” Article 30, Section T-2 refers to the “Branch President or designee.” These phrases enable the authorized individual, in these examples the Installation Head and the Branch President, respectively, to grant authority to another individual who then becomes his or her “designee.” The parties have clearly agreed, in other areas of the LMOU, to use that very language. This change will serve the Union’s interest by reflecting the established practice between the parties, under Article 30, Section S-2, of the Branch President retaining exclusive functions under that provision. The language will also prevent the Service from circumventing the Branch President and consulting with some “other ranking Union official or Representative” of its choosing. At the same time, the language will provide a means for the Service to proceed under Article 30, Section S-2, in the event that the Branch President is away, since another individual, the designee, will be available.

The modification in this provision reflects an outcome that could have been reasonably reached by the parties during their local negotiation.

AWARD

For all of the reasons delineated above, the language of Article 30, Section S-2 of the parties' LMOU for the contract period of 2011 through 2016 will be modified as follows:

A change or reposting of a duty assignment will be made only after consultation with the Branch President or designee.

Dated: June 13, 2014



Amy Lynne Itzla, Esq.
Arbitrator

State of New York) ss:
County of Westchester)

I, Amy Lynne Itzla, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

Dated: June 13, 2014



Amy Lynne Itzla, Esq.
Arbitrator

PRE ARBITRATION SETTLEMENT AGREEMENT

DATE: April 29, 2014

OFFICE: MID-ISLAND P&DC

GATS# B11M-1B-I 14008016

GRIEVANT: CLASS ACTION

ISSUE: MHA's applying for vacations for the choice vacation period.

UNION # UITEM30F

CRAFT: NPMHU

As a result of our many discussions we mutually agree to add the following language to the Mid Island NPMHU LMOU:

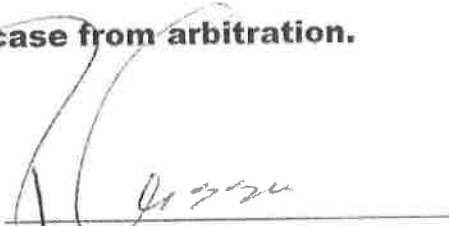
MHA's can apply for vacation selection during the choice vacation period. Such requests will not be unreasonably denied. Vacation approval will be in accordance with the Fishgold Award dated February 15, 2013.

The above language will be incorporated into the Mid Island NPMHU LMOU.

The union withdraws the above case from arbitration.



Steve Terzulli
Management Representative



Robert Lussos
Union Representative

4/30/2014
Date

PRE ARBITRATION SETTLEMENT AGREEMENT

DATE: May 9, 2014

OFFICE: MID-ISLAND P&DC

GATS# B11M-1B-I 14007974 GRIEVANT: CLASS ACTION

ISSUE: Article 30 Section S-5

UNION # UITEM30S2

CRAFT: NPMHU

As a result of our many discussions we mutually agree to update Section S-5 of the NPMHU LMOU with the following language:

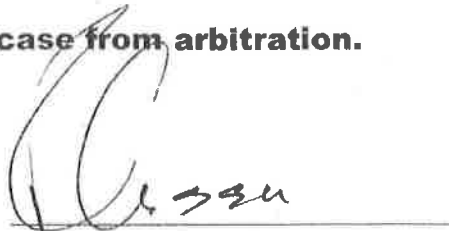
In accordance with the provisions set forth in Article 12.3E3e, those employees subject to excessing from a section and not covered by Article 25 shall be as follows, Casuals, Mail Handler Assistants, other Crafts, Part Time Regulars, Fulltime Regulars and Group Leaders.

The above language will be incorporated into the Mid Island NPMHU LMOU.

The union withdraws the above case from arbitration.



**Steve Terzulli
Management Representative**



**Robert Lussos
Union Representative**



Date