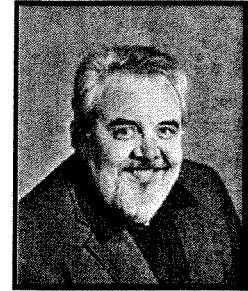


'Superseniority' Protects Union Representation

**Mike Morris, Director
Industrial Relations**

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The issue of "superseniority" often arises when excessing occurs. The contractual language on superseniority is found in Article 17.3 of the Collective Bargaining Agreement, under a section labeled "Rights of Stewards."



Federal law prohibits employers from rewarding or punishing employees for union activity, such as serving as a steward.

But the title "Rights of Stewards" is a misnomer: Superseniority exists to protect union members from losing representation; it is not a "right of the steward." Article 17.3 states:

"While serving as a steward or chief steward, an employee may not be involuntarily transferred to another tour, to another station or branch of the particular post office or to another independent post office or installation unless there is no job for which the employee is qualified on such tour, or in such station or branch, or post office."

The National Labor Relations Act (NLRA) also addresses superseniority. The NLRA prohibits employers from rewarding or punishing employees for union activity, such as serving as a steward. A recognized exception is "superseniority" when it exists, like ours, solely for the contractual protection of the bargaining unit.

Put another way, an employer and union can lawfully agree, as we have done with the USPS, to an exception to seniority rules to prevent employees from being left without a steward.

Superseniority may prevent a junior employee serving as a steward from being excessed while a more senior employee is excessed instead. This assures continuous representation of the bargaining unit.

Excessing Out of the Section, Tour

A common situation is when a steward is excessed off the tour, but not outside the craft or installation. Applying the principles of the NLRA, superseniority would prevent excessing the steward off the tour only if the employees in the area on the tour for which the steward is certified would be left without a steward.

For example, let's examine an office where the USPS is reducing the number of occupied duty assignments on Tour Two from 10 Level 6 clerks to nine Level 6 clerks. Normally, the contract would require that the junior Level 6 clerk would be declared excess to the needs of Tour Two.

If the junior clerk is the steward, then the steward would remain in a duty assignment for which he or she is qualified (not as an unencumbered clerk) as the junior employee on the tour, station or branch, in order to provide continuity of representation. The next senior Level 6 clerk would be declared excess to the needs of Tour Two and moved to a different tour.

Article 12.5.C.4.c of the Collective Bargaining Agreement (CBA) requires that clerks who are excessed in lieu of the steward have retreat rights to the Tour Two section "upon the occurrence of the first *residual vacancy* in the salary level after employees in the section have completed bidding." [Emphasis added.]

PSE Superseniority

A Postal Support Employee (PSE) who serves as an APWU steward has superseniority rights over other PSEs whenever it is necessary to let PSEs go for lack of work or when there is an opportunity to bring such PSEs back to work.

The PSE steward's superseniority does not apply when determining the appropriate PSE for conversion to career status. A PSE steward has no superseniority

There is some ambiguity in a current provision of the Joint Contract Interpretation Manual (JCIM) related to superseniority, which has led to confusion and a misapplication of superseniority. We plan to delete the following language under Article 12, at page 106, which says:

rights over career employees.

"Following excessing, stewards maintain this 'superseniority' for the purpose of bidding on initial vacancies over excessed employees wishing to exercise their retreat rights."

The language was originally intended to refer only to "in-section" bidding, which is addressed in Article 12.5.C.4.c. This is where the steward remains "in-section" and such bidding would normally result in a residual vacancy to which the excessed employee could retreat. The steward would be allowed to bid in this limited circumstance solely because he or she remains in the section.

Out of the Craft, Installation

The same principles apply when excessing a steward to another independent post office or installation. Imagine an installation comprised of a mail processing plant and three stations. There is one steward on each tour for the plant. There is also one steward who works at the plant on Tour Two but is not a steward at the plant, rather he or she serves as the steward for the stations.

The seniority of the four stewards is as follows: the senior steward is on Tour One; the next most senior steward is on Tour Three; the steward on Tour Two follows, and finally, the junior steward is the one who works on Tour Two at the plant, but represents the clerks in the stations.

Now assume an Area Mail Processing (AMP) consolidation causes a major excessing event that leads to excessing both outside the craft and the installation. Mail processing operations are completely eliminated on both Tour One and Tour Three, leaving only a scaled-back mail processing operation on Tour Two and the three stations in the clerk craft in the installation.

The Tour One and Tour Three stewards would not be protected because their bargaining units are being eliminated. This is in keeping with the principle that superseniority exists to protect the bargaining unit rather than to reward the steward. This is made clear by the bold language in the new JCIM on page 156 under superseniority.

The two stewards who would be protected in this example would be the station steward who works at the plant and the Tour Two steward, even though they are the two junior stewards. The bargaining units they represent remain. Therefore, the stewards cannot be removed "unless there is no job for which the employee is qualified on such tour, or in such station or branch, or post office."

<http://www.apwu.org/dept/ind-rel/magarts/irmagartmay13.htm>