

REGULAR ARBITRATION PANEL

IN THE MATTER OF ARBITRATION)

between)

UNITED STATES POSTAL SERVICE)

and)

AMERICAN POSTAL WORKERS UNION)
AFL-CIO)

) GRIEVANT: Class Action
) CASE NOS.
) USPS: 4B-18C-4B-C
) 22090479
) APWU: 79140021
)
)
)

Before: Prof. Robert T. Simmelkjaer, Esq.
Arbitrator

APPEARANCES

FOR THE USPS

Steven Santiago, Labor Relations Specialist
Tamika Nichols, Labor Relations Specialist

FOR THE APWU

Peter Coradi, National Business Agent
Tiffany Foster, Northeast Region Coordinator

Place of Hearing: Farmingdale, NY
Date of Hearing: April 13, 2022
Date of Briefs: May 5, 2022

AWARD

The Service violated the National Agreement when it failed to comply with the September 5, 2018 Step 4 Settlement Agreement and the September 9, 2021 Settlement Agreement. Accordingly, the Arbitrator issues the following:

Remedy

- 1) The Service is ordered to comply with the National Agreement, specifically, the September 5, 2018 Step 4 Settlement Agreement and the September 9, 2021 Settlement Agreement.
- 2) Management shall cease and desist from performance of the clerk craft bargaining work, including TACS.
- 3) Management shall grant the Lead Clerk and all applicable clerk craft employees access to all TACS reports. It shall further eliminate access restrictions on back-ups and eliminate the 30-day interval language for clerks holding duty assignments containing TACS duties.
- 4) The Service is ordered to immediately provide the TACS training course number 31267-01, in person, 8-hour classroom training to the appropriate clerks in the Syosset, New York Post Office. Those clerks who have not been fully trained shall not be held accountable for any timekeeping errors.
- 5) In accordance with the JCIM, Article 1, page 2, clerk craft in the Syosset Post Office shall be made whole, at the Level 7 overtime rate, for all the time Management spent performing clerk craft duties. The Arbitrator remands this portion of the remedy to the local parties to determine the appropriate monetary compensation to be afforded to the impacted clerks for the period of October 25, 2021 to the present.
- 6) The Arbitrator shall retain jurisdiction sine die to address any issues that may arise in the implementation or interpretation of the remedy portion of this Award.

June 13, 2022

Robert T. Simmelkjaer
Robert T. Simmelkjaer

BACKGROUND

Pursuant to the procedure for arbitration contained in the National Agreement between the United States Postal Service (hereinafter the “Service”) and the American Postal Workers Union, AFL-CIO (hereinafter the “Union”), the undersigned was selected as Arbitrator to hear and determine the following:

ISSUE: Did the Service violate the National Agreement when it failed to comply with the September 5, 2018 Step 4 Settlement Agreement and the September 9, 2021 Settlement Agreement?
If so, what shall be the remedy?

At the hearing, the parties were given ample opportunity to present their respective positions, including testimonial and documentary evidence, to directly examine and cross-examine the witnesses. The record consists of two (2) Joint Exhibits and fourteen (14) Union Exhibits. The parties also submitted several arbitration awards.

RELEVANT CONTRACT PROVISIONS

PRE-ARBITRATION SETTLEMENT AGREEMENT

Date: September 9, 2021

Offices: Former Northeast
Area Districts

GATS No. B 10C-4B-C 16670982

Grievant: Class Action
Union No. N2016102

ISSUE: TACS Duties and Responsibilities/Lead Clerks

As a final and complete settlement of the subject grievance, and without prejudice to the position of the United States Postal Service or the American Postal Workers Union, AFL-CIO in this or any other case, the following resolution has been entered into by the parties:

In full resolution of the issues identified in the instant dispute, the undersigned agree to resolve the instant grievance for a one-

time lump sum payment of \$25,000,000.00 (twenty-five million dollars). The Postal Service will supply the Union with a list of employees who have held Lead Clerk Bids since February 4, 2016. The APWU will provide a listing of employee names, EINs, and amounts to be disbursed to each employee (less appropriate deductions).

It is further agreed that \$2,500,000.00 (two million five hundred thousand dollars) will be withheld from the initial disbursement. After January 1, 2022 the APWU will provide a listing of employee names, EINs, and amounts to be disbursed to each employee who will receive the remaining funds. The total combined amount of the two disbursements shall not exceed \$25,000,000.00 (twenty-five million dollars).

This agreement settles any other grievances in locations in the former Northeast Area on this issue which may be pending, held, or have been initiated/filed at any level of the grievance procedure as of the date of the signing of this agreement.

The APWU agrees to a moratorium and will not initiate grievances or identify in any grievance any date as an infraction date on the issue of Lead Clerks performing TACS duties for a 45-day period beginning with the signing of this agreement.

The parties reaffirm that the language in two national Step 4 settlements (Q10Q-4O-C 15194931 /HQTC20150814 and Q15C-4Q-C18000314 / Q15-4Q-C 18273555) provides that Lead Clerks perform the duties associated with the Lead Clerk Clock Office Role in TACS. The Step 4 settlement of Q15C-4Q-C18000314 / Q15C-4Q-C 18273555 provides the language which assures Lead Clerk Clock Office Role duties are performed by Clerk Craft bargaining unit employees.

“This will ensure that the TACS duties associated with the Lead Clerk Clock Office Role are performed by Clerk Craft bargaining unit employees.” (Bold Face added for Emphasis).

These duties include, but are not limited to:

1. Enter, correct and delete leave (any type) into TACS, which has not been entered via eRMS.
2. Enter employee moves into TACS,
3. Enter missing time into TACS,

4. Correct clock ring errors,
5. Enter "no lunch" rings into TACS,
6. Enter guaranteed time,
7. Enter clock rings as per PS Form 1260 and PS Form 1261,
8. Enter disallowed time as per PS Form 1017-A and PS Form 1260 or PS Form 1261,
9. Enter overtime transactions (Scheduled or Unscheduled),
10. Duties associated with entering PS Form 3189, Change of Schedule,
11. Enter higher level,
12. Run TACS reports,
13. Maintain files of forms that support time and attendance entries.
14. Assist the supervisor in preparation and/or submission of a properly approved Form 2240 payroll adjustment.

The parties agree the lead clerk(s) performs the TACS duties identified above for all bargaining unit employees within the facility.

The following actions must be completed within 45 days of the signing of this settlement:

Management and Local APWU Union Officials will meet to discuss the necessary actions which must be taken to successfully effectuate compliance with this settlement.

1. Pursuant to the Step 4 Agreement Q15C-4Q-C18000314 / Q15C-4Q-C 18273555, in facilities that qualify for more than one (1) Lead Clerk duty assignment, not all Lead Clerks must be assigned TACS duties, however, management must provide the required Lead Clerk Clock Office Role training to additional Lead Clerks in order to provide appropriate coverage for each tour (F1 Mail Processing), days off and leave. This will ensure that the TACS duties associated with the Lead Clerk Clock

Office Role are performed by Clerk Craft bargaining unit employees.

2. Management will determine the number of Lead Clerks needed to perform the TACS duties in the Lead Clerk Office Role in facilities where there are more than 1 Lead Clerk.
3. If there is a mail processing location where no clerks have been given the Lead Clerk Office Role training and Lead Clerks are not performing any TACS duties:
 - a. Identify all Lead Clerks in Facility by Seniority
 - b. Assign TACS duties to Senior Clerk(s) or make mutual agreement with local union to an alternate Lead clerk(s) in lieu of the senior clerk to be assigned the TACS duties pursuant to the Step 4 Q15C-4Q-C18000314 / Q15C-4Q-C 18273555.
4. Management will also consult with the Local Unions to ensure compliance with all necessary LMOU provisions when changing or adding to an occupied duty assignment.
5. HR Local Services must take the necessary actions with HRSSC to officially add "Shall Perform TACS Duties – Must complete required TACS training" to the HCES Job Comments on the current Lead Clerk duty assignments that will be performing TACS duties.
6. Pursuant to the Step 4 Agreement Q15C-4Q-C18000314 / Q15C-4Q-C 18273555, the added job comments cited in the above paragraphs will continue to be included on future bid postings for those Lead Clerk duty assignments designated to perform TACS duties.
7. Learning Development & Diversity (L D & D) must run a training report of those Lead Clerks to identify who has not received the required TACS training. Those who have not been trained and have been designated to perform the duties, must complete the following courses in accordance with the CBA:
 - a. Lead Clerk Overview Training
 - b. Time and Attendance Collection System – Supervisor Training
8. If any employees identified above have received the above training, but they haven't performed any of the tasks associated

with this training additional training and/or brush up training will be provided without delay.

9. Operations, HR Local Services and LD &D must make arrangements with the District TACS Coordinator to schedule all necessary training with the agreed upon 45 days.

Except as provided herein, it is understood by the parties that this Agreement is full and final resolution of the instant grievance and the USPS will be relieved from any further liability concerning the instant grievance/dispute and any other grievances on this issue which may be pending, held or have been initiated/filed at any level of the grievance procedure in the former Northeast Area as of the date of the signing of this agreement.

SETTLEMENT AGREEMENT
BETWEEN THE
UNITED STATES POSTAL SERVICE
AND THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO

Re: Q15C-4Q-C18000314 / Q15C-4Q-C 18273555

The parties recently met at Step 4 of the grievance-arbitration process to discuss the above referenced grievances, initiated at Step 4 by the American Postal Workers Union (APWU). The time limits were extended by mutual agreement.

The issue in case # Q15C-4Q-C18000314 is whether employees occupying Lead Clerk duty assignments and who perform timekeeping duties must be given access to the Enterprise Resource Management System (eRMS).

The issues in case #Q15C-4Q-C 18273555 are 1) whether the February 4, 2016, Step 4 settlement agreement regarding Q10C-4Q-C 15194931/HQTC20150814, requires that Lead Clerks who are not assigned timekeeping duties be provided the same Time and Attendance Collection (TACS) training as those Lead Clerks who perform such duties; and 2) whether all non-supervisory/non-managerial TACS duties have been assigned to the Clerk Craft.

After further review and discussion, it is mutually agreed to resolve the disputes in accordance with the following understanding of the parties:

1. ERMS is identified as a Management tool, accessible to management, used to monitor and manage employee attendance. In accordance with the Clerical Work MOU, the Clerk Craft Jobs MOU and the Q10C-4Q-C 15194931/HQTC20150814 national settlement dated February 4, 2016, employees assigned the Lead Clerk Clock Office Role in TACS are not prohibited from entering supervisor approved leave into TACS. The Lead Clerk Clock Office Role was created in TACS in accordance with the 2010 Agreement which established the Lead Clerk positions and returned this type of administrative/technical work to the bargaining unit.
2. In accordance with the February 4, 2016, Step 4 settlement agreement, all Lead Clerks must receive required training. The required training for Lead Clerks assigned the Lead Clerk Clock Office Role in TACS is:

Course #31267-01 Time and Attendance Collection Systems – Supervisor Training

- a) In facilities that qualify for more than one (1) Lead Clerk duty assignment, not all Lead Clerks must be assigned TACS duties, however, management must provide the required Lead Clerk Clock Office Role training to additional Lead Clerks in order to provide appropriate coverage for each tour (F1 Mail Processing), days off and leave. This will ensure that the TACS duties associated with the Lead Clerk Clock Office Role are performed by Clerk Craft bargaining unit employees.
- b) If, in the future, the Postal Service makes changes to the Lead Clerk Clock Office Role training, to remove modules that are exclusive to supervisors and unnecessary for Lead Clerks, or to make updates to the Lead Clerk Office Role, Labor Relations at the national level will provide notification to the Union in accordance with Article 19 of the collective bargaining agreement.
- c) If the Postal Service migrates non-managerial/non-supervisory timekeeping duties into applications other than TACS, the associated work will either continue to be available in TACS for performance by the Clerk Craft or access to the application(s) will be given to Clerk Craft employees for the performance of such work.
- d) Effective with the signing of this agreement, TACS duties may be included by local management in the Lead Clerk duty assignment postings for those duty assignments properly designated to perform the Lead Clerk Clock Office Role in TACS.

- e) In facilities with Lead Clerks in duty assignments previously posted and awarded, who are currently performing TACS duties or that TACS duties were annotated on the bid posting, they will be grandfathered into this Agreement. If not previously provided, they will receive the required training, course #31267-01.
- f) In facilities with Lead Clerks in duty assignments previously posted and awarded, and there are no Lead Clerks currently performing the TACS duties, the senior Lead Clerk in the facility will receive the required training, course #31267-01, and be assigned to perform the TACS duties. The parties at the local level may mutually agree to an alternative Lead Clerk in the facility to be trained/assigned in lieu of the senior Lead Clerk.
- g) In facilities where there are multiple Lead Clerks, those Lead Clerks who have not been assigned timekeeping duties, are not required to receive the above referenced training. However, it is recommended they receive LMS Course #10025624, Lead Clerk Overview Training.

The parties further agree that any local grievances held in abeyance that remain unresolved by this agreement are subject to the grievance/arbitration procedure at the local/regional level.

Date: 9/5/2018

CONTENTIONS OF THE PARTIES

Union Position

The Union, in addition to several procedural issues, maintains on the merits that the Service neither complied with the parties' September 5, 2018 Step 4 Settlement Agreement nor their September 9, 2021 Pre-Arbitration Settlement Agreement when Management continued to perform TACS duties in the Syosset, New York Post Office through March 2022 while clerk craft employees in the Syosset Post Office were denied the requisite TACS training and access.

Specifically, the Union maintains that clerks have been denied the proper training

course number 31267-01, in-person and 8-hour classroom training appropriate for them to perform TACS duties as per the Settlement Agreements.

The Union further maintains that in lieu of providing the clerk craft in the Syosset Post Office with required training, Management has been performing TACS duties as evidenced by User Log Reports and Employee Everything Reports.

Procedural Issues

The Service has raised several procedural issues that it maintains should enable it to prevail in the instant case.

First, it notes that the Service failed to provide either a Step 1 answer or a Step 2 decision. It was also unrebutted that no Step 3 meeting took place in the instant case.

The Union further notes that “the Service failed to cite one simple contractual provision to support its position.” The Union takes issue with the Service advocate’s claim at the hearing that Fred J. Hrinuk, Labor Relations Specialist, did not receive pages 92 through 109 of Joint Exhibit No. 2. According to the Union, “the Union’s Step 2 appeal, Step 3 appeal and Step 3 additions and corrections ‘establish that those pages were in fact included in the instant case file.’”

The Union objects to irregularities in the Service’s representation as to its intention of calling Karen Barber, a retired Management official, as a witness. The Service’s indecisiveness regarding Ms. Barber’s testimony (she did not

testify) caused the Union to keep Mr. Brooks, APWU National Clerk Division Director, “on standby for 4 plus hours.”

The Union objected to the testimony of Postmaster Dioenís “Dee” Perez, Syosset Postmaster, because PM Perez failed to meet Ms. Michelle Nadeau (“Nadeau”), Long Island Area Locals (“LIAL”) Executive Vice President, at Step 2 as per Article 15. Moreover, Steward of Record Nadeau was “denied the opportunity to interview multiple individuals in the instant case,” including Management officials Monteleone, Perez, Rein, Santiago and Jablonsky, in violation of Articles 15 and 17. Also, LRS Hrinuk in his Step 3 decision gave assurances that “District Labor Relations would arrange for the outstanding requested information to be provided and for the requested interviews to be conducted.”

Nadeau testified that the Service complied with her Request for Information (RFI”), but she was not able to conduct the interviews.

Testimony

Ms. Michelle Nadeau (“Nadeau”), Executive Vice President, LIAL, testified that the Syosset Post Office did not comply with the September 9, 2021 Settlement Agreement. As a result, she filed a grievance.

Referring to an email exchange she had with Lauren Rein, Supervisor of Customer Service, Nadeau testified that she did not receive a Step 1 Answer. (Jt. Ex. #2 @ 62-66). In her recollection, SCS Rein did not dispute the Union’s contention that Lead Clerk, Corey Johnson, had not been performing TACS functions in the Syosset, Long Island Post Office. Shop Steward, Geneane

Abramson, denied that any agreement had been reached with Management to extend the 45 days allocated to the Service to comply with the Settlement Agreement. She noted that a shop steward could not violate the agreement once the moratorium expired on October 24, 2021.

Nadeau referred to the TACS duties to be performed by the clerk craft delineated in the Settlement Agreement of September 9, 2021. She testified that the User Log Reports for Syosset, NY indicate that Management officials performed TACS duties after the 45-day moratorium ended on October 25, 2021. For example, Supervisor Casco performed TACS or clerk craft work on October 26, 2021 for two hours. (Jt. Ex. #2 @ 156). In addition, the Employee Everything Reports document numerous timekeeping entries made by several Management officials from October 23, 2021 through November 5, 2021.

For example, Employee Haldi, ID No. 04406283 performed TACS duties on October 28, 2021 for six hours (6.00 BT to 12.00 ET); and Employee Haldi, ID No. 01560691 performed 11.50 (6.00 BT to 17.50 ET) hours of TACS duties on October 30, 2021.

Records show Lauren Rein (01560691) and Branden Casco (04406263) are Managers, notwithstanding their ID Nos. on the Employee Everything Report. (U. Ex. #8).

Union Exhibit #9 shows that Management continued performing TACS duties into March 2022 as evidenced by the User Log Reports. These reports reveal the individual's name, User ID date, time logged on/off, and the amount of time spent performing TACS duties. Among the Managers documented on the

User Log Reports as performing TACS duties from November 27, 2021 through March 11, 2022 were: PM Perez, Supervisor Casco, and Supervisor Rein. (U. Ex. #9).

Nadeau further testified that on November 4, 2021, she requested “TACS User Log Reports from 10/25/2021 to the present, EAS Log-In ID Numbers and corresponding PS Form 3971s, PS Form 1260 for all entries made in TACS from 10/25 – present.” This information was received. (Jt. Ex. #2 @ 156-158). However, Casco continued to perform TACS duties after the moratorium expired as his ID No. appears on Employee Everything Reports for 10/29/21, 10/25, 10/26, 10/27 and 10/28/2021.

Nadeau acknowledged that on occasion, Lead Clerk Corey Johnson and back-up clerk Lara Salvador performed TACS duties. At one point, Lead Clerk Johnson was placed on higher level detail (204B), but later reverted to her Lead Clerk job.

During Nadeau’s dialogue with PM Perez, they discussed data retrieval and the documents provided by Syosset Management. She disputed PM Perez’s that Lead Clerk Johnson had access to the TACS data. At one point, PM Perez expressed frustration with Lead Clerk Johnson being denied TACS access. (U. Exs. #10, #11).

“Cory is the one making all the moves you need, despite what you may think/allege otherwise. My instructions were clear to both Cory and my SCS concerning TACS. Therefore, I am still under the impression she is doing all of it. And for the record I do care.” (Jt. Ex. #2 @ 86).

Nadeau further testified that the Service had more than 12 days to comply. “Corey Johnson received 4 hours of training. The back-up clerk had not been trained.” Nadeau testified that she was unable to conduct the interviews she requested, clerks at Syosset were not performing all TACS duties, and although Clerk Johnson and two back-up clerks were not provided with the in-person, 8-hour training course allegedly due to COVID, Management was still providing in-person window training. (U. Exs. #12, #14). An exception is the 4-hour Time Attendance Collection System (TACS) training, Lead Sales & Service Associate (LSSDA), Corey Johnson received on June 22, 2021 via New York 2 Post Office OPS. (U. Ex. #12).

On cross-examination, Nadeau was referred to Union Exhibit No. 9 and asked how she could know what activities Supervisor Casco was engaged in since the Employee Everything Report showed only that he logged in and logged out.

Service Position

The Service has defined the issue as: “Did the Postal Service allegedly violate Pre-Arb Settlement Agreement ‘TACS Duties and Responsibilities/Lead Clerks’ dated September 9, 2021 when LSSDA Johnson was not provided with brush-up training?”

According to the Service, Lead Clerk Johnson is performing TACS duties as per PS Form 1260 and has received the entire training course.

The Service maintains that it entered into a verbal agreement with the Local Shop Steward Geneane Abramson that allowed local management to make TACS entries until the back-up lead clerk was trained.

The Arbitrator is urged to draw an adverse inference from the Union's failure to call Local Steward Abramson as a witness and subject her to cross-examination.

The Service cites language in the Union's Step 2 appeal "that despite the October 24, 2021 expiration of the 45-day moratorium articulated in the 9-9-21 settlement that Management did not intend to train a backup clerk to perform TACS duties until 12-1-21." The Service interprets this statement as evidence that the backup clerk was, in fact, trained on December 1, 2021.

The Service refers to Union Exhibit No. 12 to show that Lead Clerk Johnson was trained on June 22, 2021 and is in "completed status." It notes that "nowhere in the case file does Lead Clerk Johnson provide a statement that she is unable to perform TACS duties due to a lack of training."

The Service further considers the remedy proposed by the Union to be improper "as the LSSDA Johnson performed the lead 7 TACS duties and was paid for hours worked." The Service considers the Union's "broad-based undocumented allegation of 'improper training' yet the Union's remedy request is for overtime for all hours clerk craft bargaining unit employees to be made whole in every way inclusive but not limited to being paid Level 7 pay [at] overtime rate for all hours of the violation... The Union could not show how or who was

harmed and how the remedy request would put the 'harmed employee' back to the status quo ante."

Testimony

Postmaster Dioenis D. Perez testified that Management did not meet the Union at Step 2 due to "lots of confusion due to COVID." As he recalled, "I did not make this a priority."

PM Perez testified that on behalf of his Syosset Post Office he reached an agreement with Local Shop Steward Abramson that Managers could perform TACS duties until the back-up (Clerk Frasier) was trained.

On cross-examination, PM Perez acknowledged that no signed agreement was reached with Abramson.

On redirect, he testified that as Postmaster, he can make agreements with the Local Shop Steward to resolve grievances.

DISCUSSION

Considering the evidence in its entirety, both procedurally and on the merits, the Arbitrator is persuaded that the Service violated the National Agreement, specifically the September 5, 2018 Step 4 Settlement Agreement and the September 9, 2021 Pre-Arbitration Settlement Agreement.

I. Procedural Issues

With respect to the procedural issues, the Union has provided preponderant evidence that the Service did not comply with its Article 15 obligations. It is undisputed that the Service failed to provide a Step 1 answer, failed to meet at Step 2, and failed to generate a Step 2 answer.

While LRS Hrinuk did issue a Step 3 decision, he made uncorroborated assertions that the Local Shop Steward had agreed to allow Management to perform TACS functions beyond October 24, 2021 – the date on which the 45-day moratorium on compliance expired. This contention was rebutted by Executive Vice President Nadeau at Step 1 and by the Union's advocate in his Step 3 additions and corrections.

The Service engaged in further procedural irregularities when Nadeau was denied the opportunity to conduct interviews with eight potential witnesses, including Postmaster Perez, in violation of Articles 17 and 31. In a June 23, 2017 Memo to "Manager, Human Resources (Area)," Doug Tulino, Vice President Labor Relations, wrote:

To ensure that information requested pursuant to Articles 17 and 31 of our respective collective bargaining agreements is provided to the union in a timely manner, all facilities should establish and maintain a log of information requests and their status. District Managers, Human Resources are responsible for ensuring that all facility managers in their district are aware of this responsibility and act on it in a prompt manner."

Notwithstanding the procedural issues, the Union was able to advance the instant grievance to the arbitration level. In the Arbitrator's opinion, these procedural irregularities did not ultimately impact the Union's ability to prepare its case on the merits. The parties have provided for the Service's non-compliance during the grievance procedure as follows:

Article 15.4.C: Failure by the employer to schedule a meeting or render a decision in any of the Steps of this procedure within the time herein provide (including mutually agreed to extension periods) shall be deemed to move the grievance to the next Step of the grievance-arbitration procedure.

The procedural irregularities identified and established by the Union, while counterproductive in terms of labor/Management relations, are not dispositive of the substantive issue of whether the Service failed to comply with two Settlement Agreements.

II. Substantive Issue

The testimony of Nadeau corroborated by the documentary record establishes by clear and convincing evidence that Management not only failed to provide the requisite training to the Lead Clerk and Backup Clerk(s) as set forth in the Settlement Agreements, it also improperly allowed Management officials to perform these tasks.

Nadeau testified credibly that once the 45-day moratorium on compliance with the 9-9-2021 Settlement Agreement ended on October 24, 2021, during which time Management was allowed to perform TACS duties, Management at the Syosset Post Office continued to improperly perform TACS duties.

For example, the User Log Reports show that Supervisor Casco performed TACS functions for 2 hours on 10/26/2021, approximately 6 hours on 10/28/2021, and 7 hours on 11/1/2021. Similarly, SCS Rein performed TACS duties briefly each day from 4/29/2021 through 12/3/2021. (U. Ex. #9). In addition, Postmaster Perez, who declined to meet with APWU Executive Vice President Nadeau at Step 2, facilitated the contract violation by performing TACS duties on 10/25/21, 10/26/21, 10/27/21, 10/28/21, 10/29/21 and 11/1/21 through 11/5/21.

The Union identified through the identification numbers provided in Employee Everything Reports that employees who made TACS entries following the moratorium were managers. Notwithstanding the Employee Names and Employee ID Numbers entered on the Employee Everything Report, the actual entries for several TACS tasks were made by managers at the Syosset Post Office. For example, under the name D.N. Haldi, on 10/28/21, SCS Casco, ID No. 04406263 made TACS entries, and also under the name D.N. Haldi, on 10/29/21, SCS Rein, ID No. 01560691, made TACS entries. From 10/23/21 through 11/5/21, the Employee Everything Report data is replete with TACS entries made by SCS Casco and SCS Rein. For example, on 11/1/21, under the Employee Name E.W. Cirrone, they made TACS entries. (Jt. Ex. #2 @ 462).

Clearly, there are bonafide TACS entries on the Employee Everything Report and User Log Reports made by Lead Clerk Cory Johnson (ID No. 04353549) and by backup Clerks Lara Salvador and Kareema Frasier; however, the contract violation pertains to the improper entries made by Management in violation of the Settlement Agreements.

At some point (11/6/21 – 11/12/21), the Union filed a grievance complaining that Management was improperly assigning Cory Johnson, a 204B, to perform TACS duties and to cover SCS Rein's absences "which is less than two weeks and not more than 90 days." In addition, Nadeau advised PM Perez to "make sure managers are not entering any inputs, including leave, through ERMS that should be entered by the Lead Clerk, in TACS."

Given Management's failure to provide the names of all EAS employees performing TACS duties in the Syosset, NY Post Office, violations of the Settlement Agreements may be more extensive than indicated in the case file.

A further violation was proven by the Union when evidence was adduced that neither Lead Clerk Johnson nor backup Clerk Salvador had received the training set forth in the Step 4 Settlement Agreement 9/5/2018 as follows: "In accordance with the February 4, 2016, Step 4 Settlement Agreement, all Lead Clerks must receive required training..."

The TACS Training Course 31267-01 delineates the course modules for Supervisor Training in the Time and Attendance Collection System. (U. Ex. #13). This 8-hour course is specifically referenced in the 9/5/2018 Agreement. As noted in the Gudenburg Award, #B10C-4B-C16670982 (2019), the Service "failed to provide Northeast Area Lead Clerks with the required eight (8) hour training course." The evidentiary record established that Lead Clerk Johnson received just four (4) hours of training on 6/22/21 and not the full eight (8) hours as required. (U. Ex. #12).

As noted above, PM Perez acknowledged that Lead Clerk Johnson was denied access to TACS Reports. In his email dated March 3, 2022, he wrote to Nadeau: "Can you check to see why Cory is limited to only these (7) reports..." (U. Ex. #10). The training course identifies 85 reports that Lead Clerks should have access to which are incorporated by reference in the 9/12/2021 Settlement Agreement where it states in Item No. 12 under TACS duties "Runs TACS

reports.” The Syosset, NY Post Office is among the offices where TACS training and TACS access had been denied to the clerk craft from 9/9/21 to the present.

For its part, the Service took issue with the Union’s failure to call Shop Steward Abramson to address the alleged agreement she made with Management to permit local Management to make TACS entries until the backup clerk was trained – albeit after the expiration of the 45-day moratorium.

In the Arbitrator’s opinion, the testimony of Shop Steward Abramson would have been irrelevant since there is no contractual authority for a local steward to enter into an agreement with local Management that contradicts a National Settlement Agreement.

It is noteworthy that Management while claiming, on the one hand, that it reached an agreement with Local Steward Abramson allowing Managers to perform TACS duties, denies, on the other hand, that Managers extensively performed such TACS duties.

The Service’s assertion that LSSDA Johnson should have submitted a statement declaring that “she is unable to perform TACS duties due to lack of training” is deemed contradictory by the Arbitrator. An email exchange with Postmaster Perez, supra, provides evidence that Lead Clerk Johnson was performing only seven (7) of possibly eighty-five (85) TACS functions circa 3/3/2022. Moreover, until she was fully trained via the 8-hour course, she would not know what TACS duties she was precluded from performing due to a lack of training.

There is reference in the case file to Management granting TACS access at 30-day intervals to clerks holding duty assignments containing TACS duties. Neither the 9-9-21 Settlement Agreement nor 9-5-18 Settlement Agreement makes any reference to this requirement.

In the final analysis, the Union has presented a prima facie case that Management failed to comply with the Settlement Agreements of 9-9-21 and 9-5-18. Having failed to rebut the Union's prima facie case, the Service has deviated from USPS Policy of ensuring timely compliance with grievance settlements. As noted in the Service's June 26, 2019 Memo entitled: "Compliance with Arbitration Awards/Grievance Settlements," – "Compliance is not an option but a requirement ... No manager or supervisor has the authority to override an arbitrator's award or a signed grievance settlement."

With respect to the harm imposed on the clerk craft by the Service's non-compliance pursuant to National Arbitrator Snow's decision in W1C-5F-C4734 (1998), the Arbitrator finds that the performance of TACS duties by Management not only violated settlement agreements reached by the parties to the detriment of sound labor-management relations, but it also deprived the clerk craft of a bargained for benefit and their reasonable expectation that such work and its compensation would redound to the clerk craft.

Accordingly, in sustaining the grievance, the Arbitrator issues the appropriate remedy as set forth above.