

BEFORE THE
INTEREST ARBITRATION PANEL
STEPHEN B. GOLDBERG, NEUTRAL CHAIRMAN

IN THE MATTER OF:

UNITED STATES POSTAL SERVICE

and

NATIONAL POSTAL PROFESSIONAL NURSES

affiliated with the

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

Interest Arbitration Panel

Darryl J. Anderson, NPPN/APWU Arbitrator
Kevin B. Rachel, USPS Arbitrator
Stephen B. Goldberg, Neutral Chair

Appearances:

United States Postal Service

Lynn D. Poole, Manager, Arbitration, Labor Relations
Stephan J. Boardman, Chief Counsel, Labor Relations, Law Dept.
Daniel L. Garry, Attorney, Employment & Labor Relations, Law Dept.
Sonya J. Penn, Manager, Selection and Placement

National Postal Professional Nurses/American Postal Workers Union

Richard S. Edelman (O'Donnell, Schwartz & Anderson, P.C.)
Bill Manley, Director, Support Services Division, APWU

Discussion

The central issues in this arbitration were:

- Should the MOU embodying the 1993 Gershenfeld Award preserving 51 health units be carried forward into the 2007 Agreement?
- If not, what provision should be made for bargaining unit members displaced as a result of the closing of health units?
- What wages and benefits should be provided for in the 2007 Agreement?

The Panel heard evidence and argument on these issues for seven days in late March and early April 2009. Having fully considered all the evidence and argument, the Panel resolves the above issues as follows:

A. Continuation of the Gershenfeld Award

Considerable evidence was adduced to show that the clinical health care provided by Occupational Health Nurses in the 51 health units maintained in existence pursuant to the Gershenfeld Award has been valuable to the Postal Service and its employees. Nonetheless, Congress provided in the Postal Reorganization Act of 1970 that the central mission of the Postal Service is not to provide health care, but rather to “maintain an efficient system of collection, sorting, and delivery of the mail” (39 U.S.C. Sec. 403 (b)(1)). In light of this Congressional mandate, the Panel is unwilling to substitute its judgment for that of the Postal Service, which has concluded that the cost of maintaining health units, an ancillary function to its central mission, outweighs the benefits of providing such care. Accordingly, we do not award continuation of the MOU which embodies the Gershenfeld Award, but rather permit the Postal Service to close all health units and cease providing such clinical care.

It should be clear that this Award does not empower the Postal Service to have on-site walk-in patient care provided by anyone other than members of the bargaining unit. The Postal Service need not provide on-site walk-in patient care for its employees, but if it does so, that work must be performed by Occupational Health Nurses represented by NPPN/APWU.

B. Duties and Reassignment of Occupational Health Nurses

The Panel has dealt with this thorny issue in two ways. First, with the assistance of both the OHNs and Health and Resource Management, we have prepared a revised Position Description setting forth duties and responsibilities of the Occupational Health Nurse

outside the clinical care setting. Central to the revised Position Description (attached as Appendix A to this Decision and Award) is the enhanced role of the OHN in providing selected case management functions. The Postal Service will substitute the revised Position Description for the existing one in the appropriate postal handbook.

Second, we have awarded an MOU providing that the Postal Service will develop a staffing plan for OHNs within 60 days from the date of this Award, and precluding the Postal Service from involuntarily transferring or hiring any OHNs until it has discussed its proposed staffing plan with the Union, and the Union has agreed to that plan. If the Postal Service and the Union do not agree on a staffing plan, the matter will be referred back to this Panel for a final and binding decision.

C. Wages and Benefits

The Postal Reorganization Act provides that Postal Service employees shall receive compensation “comparable to the compensation and benefits paid for comparable levels of work in the private sector of the economy” (39 U.S.C. Sec. 1003 (a)). Both parties presented evidence regarding the compensation and benefits of occupational health nurses in the private sector doing work comparable to that done by Postal Service OHNs. The Union argued that, based on that evidence, OHNs were substantially underpaid. Accordingly, the Union asserted, OHNs should receive a “catch-up” increase of 20% in the first year of the Agreement, followed by annual increases equal to the annual percentage change in the ECI (Employment Cost Index). The Postal Service argument was that OHNs are not underpaid, particularly in light of the medical, retirement and other benefits available to them under the Agreement. It proposed two lump sum payments for 2007 and 2008 with annual increases equal to the annual percentage increase in the ECI thereafter, with no provision for a “catch-up” increase. (The parties had agreed that the 2007 Agreement would contain the same health premium contributions as those provided for in agreements between the Postal Service and the APWU.)

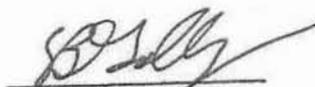
The Panel finds that the evidence relating to comparability supports awarding annual pay increases in the amount of the annual percentage increases in the ECI for each year of the contract.

Award

Based upon the evidence and argument presented in this matter, the Panel awards the Agreement attached hereto as Appendix B. Pursuant to the terms of this Award, the parties may need to make certain other conforming changes in the language of the Agreement, such as to revise references to "health unit" to reflect where OHNs will be working.


Darryl J. Anderson
NPPW/APWU Arbitrator


Kevin B. Rachel
USPS Arbitrator


Stephen B. Goldberg
Neutral Chair

April 28, 2009