American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

To: Local and State Presidents
National Business Agents
National Advocates
Regional Coordinators
Resident Officers

From: Greg Bell GB
Director, Industrial Relations

Date: June 15, 2005

Re: Das Award on FMLA 1,250-Hour Requirement

Enclosed you will find a copy of a recent award denying the union's position on whether work done by Union officers while they are on LWOP for union business counts toward the 1,250 "hours of service" with the employer required for eligibility under the Family and Medical Leave Act (FMLA). Arbitrator Das ruled that "ELM 515.3 does not expand upon the statutory requirements in the FMLA by requiring the Postal Service to count work done by Union officers while they are on LWOP for union business toward the 1,250 'hours of service' with the Postal Service required for eligibility under the FMLA *(USPS #Q00C-4Q-C 02126262; 6/3/2005)*.

This case arose after an underlying class action grievance was filed at the local level in Tampa, FL. That local grievance alleged that the Postal Service violated the National Agreement when it advised that union LWOP hours are not calculated as part of the 1250-hour eligibility requirement under the FMLA. The local grievance was subsequently reviewed by the parties to determine whether an interpretive issue existed. After finding an interpretive issue, the Postal Service then initiated a national level dispute at Step 4 of the grievance procedure. At Step 4, the Postal Service asserted that LWOP for any reason, including union business, is not "work hours" and, therefore, is not counted toward the required 1,250 work hours needed to qualify for FMLA protection.

In arbitration, the APWU argued that treating work for the Union while on LWOP as "work" under ELM 515.3 for purposes of FMLA protection is consistent with the meaning the parties have given that term elsewhere and is consistent with the parties' intent to protect Union officials from prejudice due to their union work. The Union submitted evidence to show that an employee's benefits are left in place when he or she takes LWOP for union work. The Union pointed to specific protections provided by the Postal Service to employees who perform union activities (e.g. Union officials on LWOP continue to accrue service credit for retirement under Article 24). The Union also cited ways in which the Union protects employees on LWOP for

union work (e.g. the Union pays for lost annual leave, lost sick leave, and lost work time due to LWOP). The Union argued thusly, to the extent that the Postal Service does not or cannot protect employees, such as in making payments for fringe benefits when they are serving without pay, the Postal Service provides the service credit and the APWU, or in some cases the employee, makes the payments.

Furthermore, although the APWU recognized that the DOL regulations issued under the FMLA only require that credit be given for actual hours worked, as determined under the Fair Labor Standards Act (FLSA), and that LWOP for union business is not included under that definition of "actual work," the APWU stressed that the FMLA expressly permits the parties to agree by contract to provide a broader benefit than is available under the Act. The Union contended that ELM 515.3 uses the term "work" not "actual work" and that the Postal Service was well aware of the proper interpretation and application of the term "actual work" when it wrote 515.3. Therefore, it was the Union's contention that ELM 515.3 provides a broader benefit that that available under the Act.

Moreover, the APWU contended that two APWU booklets placed in evidence by the Postal Service at the hearing do not suggest that the APWU understood the word "work" in ELM 515.3 to have any different meaning than the parties have given it elsewhere in treating union work while on LWOP as work or service for the Postal Service. The APWU's "How the Family and Medical Leave Act Affects You" and the1995 revised edition booklets state that "The requirement of 1,250 hours during the 12-month period prior to the date leave commences includes 'worked hours' only. Periods of annual, sick or administrative leave, or LWOP for any purpose including union activity, are not counted as 'worked hours.'" At the arbitration hearing, the APWU provided testimony that the booklets were issued when the DOL Regulations, which do not require union leave time to be counted as hours of service for FMLA eligibility, came out. At that time, the issue of a postal employee being subject to discipline for an absence that would have qualified for FMLA leave if the time that the employee was on LWOP for union business counted as hours of service for the Postal Service never came up. It was only when the underlying grievance in this case arose in Tampa in 2000 that the issue of discipline came up. By then the dispute dealt not with the DOL regulations addressed in the APWU's earlier booklets, but with application of the CBA, including the relevant provisions of the ELM.

Finally, the APWU further argued that to not credit APWU officials with service to the Postal Service for their union work would be unfair and contrary to the protection the parties otherwise have afforded to employees who take LWOP for union business. The Union also refuted the Postal Service's contention that crediting hours worked while on LWOP for union business for FMLA protection would violate Section 8(b)(2) of the National Labor Relations Act (NLRA).

The Postal Service, on the other hand, contended that the FLSA requires payment for time actually worked, and that principle applies to the requirement to work 1,250 hours to attain eligibility under the FMLA and related ELM sections. The Postal Service argued that it has been the consistent practice of the Postal Service during the years since the passage of the FMLA in 1993 to not include time worked on union business while an employee is on LWOP as "hours

worked" for FMLA purposes. They asserted that the APWU pays employees for time devoted to union activities, makes health insurance and retirement contributions, and supplements the employee's sick and annual leave because the Union is the employer while employees are on LWOP for union business. The Postal Service argued that it pays wages and provides benefits based on the hours of employees work for the Postal Service, with only two exceptions, both of which are mandated by law (i.e. the Uniformed Services Employment and Reemployment Rights Act and by courts and arbitrators as part of a make-whole remedy). Except in cases falling under those two exceptions, regardless of why an employee takes leave, an employee's time while on leave is not credited for FMLA purposes.

Furthermore, the Postal Service claimed that when it has agreed to provide a benefit to Union employees (i.e. providing step increases to employees on union leave) they have always spelled out that benefit in writing in the collective bargaining agreement or in a memorandum of understanding. They claim that there is no such agreement to count non-work time toward the 1,250-hour requirement under the FMLA. The Postal Service also argued that, although it cannot properly discipline employees because they take union leave, employees who take such leave are treated exactly the same as other employees who take LWOP.

Arbitrator Das concluded that there is nothing in the language of ELM 515.3 to suggest that it includes hours worked for some other employer than the Postal Service. Arbitrator Das noted that in earlier correspondence between the parties, the Union indicated its belief that, for FMLA purposes, the Postal Service and the APWU were joint employers of Union officials on LWOP from the Postal Service for union business, but the Union had not pursued that position in this arbitration. Arbitrator Das also found that, while the consistent practice followed by the Postal Service since 1993 has been not to count work performed by Union officers while on LWOP on union business for purposes of FMLA eligibility, that practice went unchallenged until the underlying grievance in this case was filed in late 2000.

With regard to the two APWU booklets that were introduced into evidence by the Postal Service, Arbitrator Das concluded that the APWU's interpretation set forth in the booklets, which coincides with that of the Postal Service, is an interpretation of ELM 515.3, not just of the FMLA. In drawing this conclusion Arbitrator Das relied on the preface to the initial booklet, which states, "The Postal Service implemented the Family and Medical Leave Act of 1993 (FMLA) for all postal employees on August 5, 1993. The new law necessitated changes in Section 515 of the Employee and Labor Relations Manual (ELM) and this book provides these changes along with APWU's interpretations. Our interpretations follow the interim Final Regulations published by the Department of Labor.... This book follows the order of the sections of the ELM that have been changed to reflect the provisions of the Family and Medical Leave Act. To use it, refer to the ELM language, printed in italics, and then to go APWU's interpretation (indicated by logo)." The APWU interpretation of ELM 515.3 follows a statement of the ELM language (printed in italics) which has remained in effect to the present. The 1995 revised edition of the booklet contains similar prefatory language and the same APWU interpretation of ELM 515.3.

Moreover, Arbitrator Das agreed with Management that provisions designed to protect postal employees who take LWOP for union business have only been done by explicit agreement and that there is no such agreement with respect to FMLA eligibility. Das then found it unnecessary to consider the Postal Service's contention that the Union's action in the case violates Section 8(b) of the NLRA.

Das then concluded that ELM 515.3 does not expand upon the statutory requirements in the FMLA by requiring the Postal Service to count work done by Union officers while they are on LWOP for union business toward the 1,250 "hours of service" with the Postal Service required for eligibility under the FMLA.

GB/PH/jm
opeiu#2
afl-cio

National Arbitration Panel

In the Matter of Arbitration	)	
	)	
	)	
between	)	
	)	Case No.
	)	Q00C-4Q-C 02126262
United States Postal Service	)	
	)	
	)	
	)	
and	)	FMLA 1250-Hour
	)	Requirement
	)	
American Postal Workers Union	)	

Before: Shyam Das

Appearances:

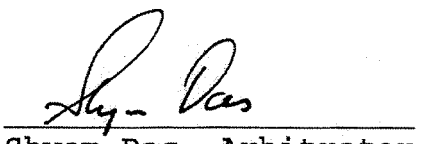
For the Postal Service:	Stephan J. Boardman, Esquire Kimber A. Proud, Esquire
For the APWU:	Darryl J. Anderson, Esquire
Place of Hearing:	Washington, D.C.
Dates of Hearing:	October 15, 2004
Date of Award:	June 3, 2005
Relevant Contract Provision:	Article 19 and ELM 515.3
Contract Year:	2000-2003
Type of Grievance:	Contract Interpretation

Award Summary

The stipulated issue in this case is:

> Whether work done by Union officers while they are on Leave Without Pay (LWOP) for union business counts toward the 1,250 "hours of service" with the employer required for eligibility under the FMLA.

For the reasons set forth in the above Findings, the Answer to this issue is: "No."



Shyam Das, Arbitrator

The parties have agreed to the following statement of the issue in this case:

> Whether work done by Union officers while they are on Leave Without Pay (LWOP) for union business counts toward the 1,250 "hours of service" with the employer required for eligibility under the FMLA.

To be eligible for protection under the Family and Medical Leave Act (FMLA), an employee must have been employed "for at least 1,250 hours of service" with the employer from whom leave is requested during the previous 12-month period. 29 U.S.C. §2611(2)(A). U.S. Department of Labor (DOL) Regulations issued under the FMLA provide, at 29 CFR 825.110(c):

> Whether an employee has worked the minimum 1,250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work (*see* 29 CFR Part 785). The determining factor is the number of hours an employee has worked for the employer within the meaning of the FLSA.

There is no dispute that the FLSA requires payment for time actually worked for the employer, and that work performed by Union officers while they are on leave without pay (LWOP) from the Postal Service for union business is not time actually worked for the Postal Service under the FLSA.[1]

---

[1] At Step 4, the Union asserted that if the DOL Regulations could be read to exclude from "hours of service" under FMLA

The FMLA also provides:

§2652. Effect on existing employment benefits

(a) More protective

Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this Act or any amendment made by this Act.

* * *

§2653. Encouragement of more generous leave policies

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

---

§2611(2)(A) service while on LWOP for union business, the regulations would be contrary to the statute and therefore invalid. At arbitration, the Union put a somewhat different cast on this position. It argued that to the extent the Postal Service might argue that the DOL Regulations required employers to exclude time spent on leave for union duties from "hours of service" under the FMLA, the regulations would be contrary to the statute and invalid. The Postal Service has not made that argument.

ELM 515.3 addresses eligibility of postal employees for FMLA protection. It states:

> Eligibility
>
> For an absence to be covered by the FMLA, the employee must have been employed by the Postal Service for an accumulated total of 12 months and must have worked a minimum of 1,250 hours during the 12-month period before the date leave begins.

The crux of the Union's position in this case is that the term "work" used in 515.3 includes service as a Union representative while on LWOP. The Postal Service disagrees.

Sometime after the FMLA became effective for all postal employees on August 5, 1993, the APWU issued a handbook to its members entitled: "How the Family and Medical Leave Act Affects You". The Union issued a Revised Edition of this booklet in 1995. Both editions, which were placed in evidence by the Postal Service, contain the following APWU interpretation of the eligibility requirement:

> The requirement of 1250 hours during the 12-month period prior to the date leave commences includes "worked hours" only. Periods of annual, sick or administrative leave, or LWOP for any purpose, including union activity, are not counted as "worked hours." ...
>
> (Emphasis added.)

At arbitration, Greg Bell, the Union's Director of Industrial Relations, explained that these APWU booklets were issued when the DOL Regulations, which do not require union leave time to be counted as hours of service for FMLA eligibility, came out. At that time, he stressed, the issue of a postal employee being subject to discipline for an absence that would have qualified for FMLA leave if the time that employee was on LWOP for union business counted as hours of service for the Postal Service never came up. Prior to FMLA, Bell pointed out, stewards were never disciplined because they were granted LWOP to perform union business. To subject them to discipline in those circumstances would be inconsistent with the intent of the CBA, and the National Labor Relations Act, that employees will not be adversely affected for taking LWOP to perform union business. It was only when the underlying grievance in this case arose in Tampa in 2000, Bell stated, that the issue of discipline came up. By then, he pointed out, the dispute dealt not with the DOL Regulations addressed in the APWU's earlier booklets, but with application of the CBA, including the relevant provisions of the ELM.

Sandra Savoie, a Labor Relations Specialist at Headquarters, stated that whether or not an employee, who had taken LWOP for union business and did not meet the 1250 hours worked requirement for FMLA leave, would be disciplined for an absence that would have been covered if the employee was eligible for FMLA protection would be subject to case-by-case review. She pointed out that the Postal Service must establish just cause for any disciplinary action it takes.

UNION POSITION

The APWU argues that because ELM 515.3 was unilaterally promulgated by the Postal Service it is to be interpreted objectively and, to the extent it is subject to more than one objective interpretation, it must be given the interpretation less favorable to the Postal Service, as the party that drafted it. The APWU contends that treating work for the Union while on LWOP as "work" under ELM 515.3 for purposes of FMLA protection is consistent with the meaning the parties have given that term elsewhere and with the parties' consistent intent to protect Union officials from prejudice due to their union work.

The APWU points out that the Postal Service's recognition in ELM 911.1 that employees have the right to participate in union activities without penalty extends well beyond collective bargaining and grievance handling. Citing provisions of the CBA and the ELM, the APWU notes the following specific protections provided by the Postal Service to employees who perform union activities:

- Union LWOP counts toward service credit for no layoff protection under Article 6.
- Union LWOP counts toward service time for step increases under Article 24 and ELM Part 420.
- Union officials on LWOP continue to accrue service credit for retirement under Article 24.

- Union officers continue to accrue seniority and may bid for open positions, even though they may never perform any actual work in their bid position.

- Local union stewards perform Step 1 and 2 grievance work on the clock under Article 17, Section 4.

- A union representative is compensated for attendance at labor-management committee meetings under Article 17, Section 5.

- Union LWOP has its own unique code, so union officers on LWOP will not be treated as other employees on LWOP.

The APWU also cites the following ways in which the Union protects employees on LWOP for union work:

- Lost annual leave is paid for by the Union.

- Lost sick leave is paid for by the Union.

- Lost work time due to LWOP is paid for by the Union.

- Retirement contributions are paid either by the Union or by the employee on LWOP.

- Health insurance premiums are paid either by the Union or by the employee on LWOP.

- Life insurance premiums are paid for either by the Union or by the employee on LWOP.

Thus, to the extent the Postal Service does not or cannot protect employees, such as in making payments for fringe benefits when they are serving without pay, the Postal Service provides the service credit and the APWU, or even the employee, makes the payments.

The critical point, the APWU asserts, is that the employee's benefits are left in place when he or she takes LWOP for union work. If the Postal Service's reading of ELM 515.3 were correct, the APWU stresses, protection from discipline for leave due to serious personal or family illness would be the exception to the rule.

The APWU recognizes that the DOL regulations issued under the FMLA only require that credit be given for actual hours worked, as determined under the FLSA, and that LWOP for union business is not included under that definition of actual work. The APWU stresses, however, that the FMLA expressly permits the parties to agree by contract to provide a broader benefit than is available under the Act.

The APWU points out that ELM 515.3 uses the term "work" not "actual work", and that the Postal Service was well aware of the proper interpretation and application of the term "actual work" when it wrote 515.3. "Actual work" is a term of art under the FLSA and has been defined in ELM 444.22 as "all time which management suffers or permits an employee to work". The term "actual work" is used to determine the hours for which

the Postal Service must pay overtime pay under the FLSA and under the ELM. Citing a National Arbitration decision by Arbitrator Mittenthal, Case No. H7T-3W-C 12454 (1993), the APWU stresses that the Postal Service did not link the term "work" in ELM 515.3 with the term "actual work" in the FLSA and in ELM 444.22.

The APWU insists that the two APWU booklets introduced by the Postal Service do not suggest that the APWU understood the word "work" in ELM 515.3 to have any different meaning than the parties have given it elsewhere in treating union work while on LWOP as work or service for the Postal Service. The APWU asserts that there is no evidence that it was considering the ELM 515.3 language when it issued those booklets between 1993 and 1995, or that the Postal Service was relying on those documents when it drafted its ELM 515.3 language. The APWU maintains there is no evidence that ELM 515.3 was communicated to the APWU prior to June 1998, the date of the earliest version of ELM 515.3 in the record. While there is evidence that a draft of ELM Part 515, including what later became 515.3, was included in an August 1993 Postal Bulletin, publication in the Postal Bulletin is not notice to the Union required by Article 19 of the CBA.

The APWU further contends that crediting APWU officials with service to the Postal Service for their union work is fair and appropriate. To not credit such service would be unfair and contrary to the protection the parties otherwise have afforded to employees who take LWOP for union business.

Therefore, the following provision in ELM 511.1 provides additional support for the APWU's position in this case:

> Administration Policy
>
> The Postal Service Policy is to administer the leave program on an equitable basis for all employees, considering (a) the needs of the Postal Service and (b) the welfare of the individual employees.

Finally, the APWU insists that crediting hours worked while on LWOP on union business for FMLA protection does not violate Section 8(b)(2) of the National Labor Relations Act (NLRA). In any event, that argument is foreclosed both because it admittedly was raised by the Postal Service for the first time at arbitration, and because the Arbitrator's jurisdiction is limited to interpreting and applying the National Agreement, not external law.

EMPLOYER POSITION

The Postal Service contends that the FMLA, the CBA and relevant provisions of the ELM -- which as postal regulations have the full force of law as well as being incorporated into the CBA -- provide that employees must work at least 1,250 hours in the preceding 12-month period to be eligible for FMLA-protected leave. The FLSA requires payment for time actually worked, and that principle applies to the requirement to work 1,250 hours to attain eligibility under the FMLA and related ELM sections.

This conclusion, the Postal Service adds, is buttressed by a consistent practice during the years since passage of the FMLA in 1993 of not including time worked on union business while an employee is on LWOP as hours worked for the Postal Service for FMLA purposes. That also is true with respect to pay and other benefits. The Postal Service stresses that the APWU itself pays employees for time devoted to union activities, makes health insurance and retirement contributions, and supplements the employees' sick and annual leave because the Union is the employer while employees are on LWOP for union business. The Postal Service pays wages and provides benefits based on the hours employees work for the Postal Service in accordance with "the principle of a fair day's work for a fair day's pay", recognized in Article 34, Section A of the CBA.

The Postal Service points out that this principle is applied to other employees in the same way vis-à-vis FMLA eligibility, with only two exceptions, both of which are mandated by law, i.e., by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §4301 *et seq.*, for those serving in the armed services, and by courts and arbitrators as part of a make-whole remedy. With those two mandated exceptions, regardless of why an employee takes a leave, an employee's time while on leave is not credited for FMLA purposes. Employees taking lengthy leave for maternity, for a disability, for protected advocacy activities, or for personal reasons do not receive the favorable treatment sought here by the APWU only for Union officials.

The Postal Service insists that it certainly did not agree to count non-work time towards the 1,250-hour requirement. When the Postal Service has agreed to provide a benefit to Union employees -- as in the case of providing step increases to employees on union leave -- this has been spelled out in writing in the CBA or a memorandum of understanding.

The Postal Service also points to the APWU's admission in two published booklets that employees are not provided FMLA credit for non-work time while they are on LWOP for union activities.

The Postal Service agrees that it cannot properly discipline employees because they take a union leave, but stresses that employees who take such leave are treated exactly as other employees who take LWOP. Employees who have taken union leave still must observe uniformly-applied attendance rules upon their return to work, or they will be subject to the same discipline in the normal course as any other employee would be, not because they took a leave (regardless of the reason), but because of unscheduled absences that result in an employee's failure to be regular in attendance when unprotected by the FMLA.

The Postal Service further contends that the APWU seeks an illegal benefit for employees who engage in union activities, contrary to Sections 8(b)(1)(A) and 8(b)(2) of the NLRA. The Postal Service acknowledges this issue was not raised

prior to arbitration and that, as a general rule, issues not raised in a timely, appropriate manner will be waived. In this instance, however, the Postal Service argues, the issue of illegality may be raised -- like jurisdiction -- at any time. Moreover, raising the issue prior to arbitration would have been premature, because the APWU did not engage in illegal activity until it appealed the matter to arbitration, and thereby sought to coerce acceptance of its position, which until then was merely an expression of its views.

FINDINGS

There is no dispute in this case that the definition of "eligible employee" in §2611(2)(A) of the FMLA does not require the Postal Service to count work done by Union officers while they are on LWOP for union business as "hours of service" with the Postal Service for purposes of eligibility for FMLA leave. The Union contends, however, that this is required by ELM 515.3, which the Postal Service is obliged to comply with under the CBA.

The relevant language in ELM 515.3 was first adopted as a postal regulation shortly after the enactment of the FMLA in 1993. It was part of the revisions made to ELM 515 to comply with the FMLA. ELM 515.3 was not negotiated, nor was it challenged by the Union. It states that an employee "must have worked a minimum of 1,250 hours" during the preceding 12 months to be eligible for FMLA coverage. There is nothing in the

language of this provision to suggest that it includes hours worked for some other employer than the Postal Service.[2]

The parties have agreed that Step 1 and 2 grievance work performed by local union stewards while they are on the clock and being paid by the Postal Service is to be counted towards FMLA eligibility. This case is not about those employees, but about employees who take a leave without pay to work for the Union.

The consistent practice followed by the Postal Service since 1993 has been not to count work performed by Union officers while on LWOP on union business for purposes of FMLA eligibility. That practice went unchallenged until the underlying grievance in this case was filed in late 2000. Moreover, in two editions of a booklet published by the APWU to explain to its members "How the Family and Medical Leave Affects You", the Union specifically set forth its interpretation of ELM 515.3, stating:

> Periods of annual, sick, administrative leave or LWOP for any purpose, including union activity, are not counted as "worked hours".

---

[2] In earlier correspondence between the parties, the Union indicated its belief that, for FMLA purposes, the Postal Service and the APWU were joint employers of Union officials on LWOP from the Postal Service for union business. The Union did not pursue that position in this arbitration.

The Union may not have fully thought through the consequences -- in terms of potential discipline for absences not covered by FMLA -- of the interpretation it set forth in its booklets, but that interpretation -- which fully coincides with that of the Postal Service -- is an interpretation of ELM 515.3, not just of the FMLA. As stated in the preface to the initial booklet, which was published before the DOL issued its Final Regulations on January 6, 1995:

> The Postal Service implemented the Family and Medical Leave Act of 1993 (FMLA) for all postal employees on August 5, 1993. The new law necessitated changes in Section 515 of the Employee and Labor Relations Manual (ELM) and this book provides these changes along with APWU's interpretations. Our interpretations follow the interim Final Regulations published by the Department of Labor....
>
> * * *
>
> This book follows the order of the sections of the ELM that have been changed to reflect the provisions of the Family and Medical Leave Act. To use it, refer to the ELM language, *printed in italics,* and then to APWU's interpretation (indicated by logo).

The previously quoted APWU interpretation of ELM 515.3 follows a statement of the ELM language (printed in italics) which -- with a slight modification that has no bearing on the issue in this case -- has remained in effect to the present. The second booklet published by the APWU in 1995, after the DOL issued its Final Regulations, includes similar prefatory language and the

same APWU interpretation of ELM 515.3 as in the original version.

The Union stresses that the parties have agreed to a variety of provisions designed to protect postal employees who take LWOP for union business. These provisions are indeed beneficial to such employees and show that for certain purposes the parties have afforded special treatment to Union officials on LWOP for union business. In each instance, however, this has been done by explicit agreement. There is no such agreement with respect to FMLA eligibility.

It is unnecessary to further consider the Postal Service's contention -- assuming for sake of argument only that it was legitimately raised for the first time at arbitration -- that the Union's action in this case violates Section 8(b) of the NLRA.

For the reasons set forth above, I conclude that ELM 515.3 does not expand upon the statutory requirements in the FMLA by requiring the Postal Service to count work done by Union officers while they are on LWOP for union business toward the 1,250 "hours of service" with the Postal Service required for eligibility under the FMLA.

AWARD

The stipulated issue in this case is:

Whether work done by Union officers while they are on Leave Without Pay (LWOP) for union business counts toward the 1,250 "hours of service" with the employer required for eligibility under the FMLA.

For the reasons set forth in the above Findings, the Answer to this issue is: "No."

Shyam Das, Arbitrator