

SHYAM DAS  
ARBITRATOR

C-25091

530 OLIVER BUILDING  
535 SMITHFIELD STREET  
PITTSBURGH, PA 15222

PHONE: 412-471-1558  
FAX: 412-471-2166  
E-MAIL: sdarb@aya.yale.edu

March 22, 2004

VIA FAX AND 1ST CLASS MAIL

Melinda K. Holmes, Esq.  
O'Donnell, Schwartz & Anderson  
1300 L Street, NW - Suite 1200  
Washington, DC 20005  
FAX: 202-682-9276

Larissa O. Taran, Esq.  
Employment and Labor Law  
U.S. Postal Service  
475 L'Enfant Plaza, SW  
Washington, DC 20260  
FAX: 202-268-4997

Re: Case No. Q00C-4Q-C 03126482

Dear Ms. Holmes and Ms. Taran:

By letter dated March 2, 2004, the APWU seeks permission to add two exhibits to the record in this case. By letter dated March 11, 2004, the Postal Service opposed this request. The APWU submitted a further letter on March 17, 2004, responding to the Postal Service's opposition.

While it is true that the record in this case remains open for the limited purpose of receiving the parties' post-hearing briefs, the record otherwise was closed at the conclusion of the hearing on October 16, 2003. The parties basically agree on the criteria to be considered in ruling on the Union's request to reopen the record. The first two criteria -- that the request precedes the final award and that the proffered evidence was not available at the time of the hearing -- are met.

The third and fourth criteria are whether the proffered evidence is pertinent and whether it is likely to affect the outcome of the case. The APWU asserts that the two exhibits are: "directly material to the parties' dispute over the necessity of asking for descriptions of the nature of employees' illnesses or injuries, and as such likely to influence your ultimate decision on the propriety of the Postal Service's position in this dispute." The Postal Service asserts that the documents -- which relate to the Interactive Voice Recognition (IVR) system -- are irrelevant because: "The IVR system would simply take the place of a live person answering such calls."

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Melinda K. Holmes, Esq.  
Larissa O. Taran, Esq.

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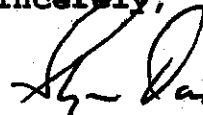
Accepting the parties' assertions as made in good faith, it seems to me the Union has made a sufficient showing that the IVR scripts sent by the Postal Service to the APWU, and the accompanying letters, are relevant to an issue in this case and may have some effect on the outcome. (Without first seeing these particular exhibits, I really cannot determine if they are "likely" to affect the outcome.)

The fifth and last criteria is that the admission of the evidence does not "improperly prejudice" the other parties. The Postal Service claims it would be prejudiced because if the documents had been admitted at the hearing, it would have offered testimony and exhibits to establish their irrelevance, and because the Postal Service has an interest in resolving grievances as expeditiously as possible.

I am not persuaded that admitting the evidence would be improperly prejudicial to the Postal Service. I shall grant the Postal Service's request (which the Union does not oppose) to be provided the opportunity to respond with additional testimony and exhibits. In contrast to many other cases, this case has involved only one hearing day to date, and, while I understand that all parties have a legitimate interest in resolving grievances as expeditiously as possible, I do not believe that the brief additional delay that will result from my admitting these exhibits improperly prejudices the Postal Service.

Accordingly, I am granting the Union's request to add the two exhibits (designated Union Exhibits 22 and 23) to the record and the Postal Service's request for an opportunity to respond with additional testimony and exhibits. The parties should promptly confer to agree upon a date (from among the future hearing dates I already have provided the parties) on which this can be accomplished.

Sincerely,



Shyam Das, Arbitrator

SD/snr

cc: ✓ Keith Secular, Esq., FAX: 202-393-2489  
Bruce Lerner, Esq., FAX: 202-842-1888