

REGULAR ARBITRATION

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| In the Matter of the Arbitration |) | Grievant: Matthew Ackah |
| |) | |
| Between |) | Post Office: Diamond Farms, Gaithersburg, MD |
| |) | |
| UNITED STATES POSTAL SERVICE |) | USPS No.: KO6N-4K-C 08367050 |
| |) | |
| and |) | Union No.:7808CFC17 |
| |) | |
| NATIONAL ASSOCIATION OF |) | |
| LETTER CARRIERS, AFL-CIO |) | |
| |) | |
| |) | |

BEFORE: ARBITRATOR ELLEN S. SALTZMAN

APPEARANCES:

For the U. S. Postal Service: Mr. David A. Chiles

For the Union: Mr. Delano Wilson

Place of Hearing: Suburban Maryland P & D C, 16501 Shady Grove Road, Gaithersburg, MD

Date of Hearing: February 18, 2009

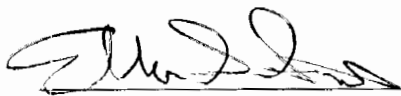
AWARD: Grievance is sustained.

Date of Award: March 17, 2009

PANEL: NALC Region 13/USPS Capital Metro Area Regular Panel

Award Summary

The Grievance is sustained. The Postal Service will reassign Mr. Aldana to a Supervisor's position at another Post Office or any other position at another Post Office as it deems appropriate. Within three months (3) months of this decision, Supervisor Aldana shall receive sensitivity training – training geared to learning how to proactively avoid words and actions that can be perceived as disrespectful or intimidating by others as well as training to only reflect the positions of the USPS and not his own personal positions or views, especially with regard to overtime.



Ellen S. Saltzman, Arbitrator

In accordance with the National Agreement between the National Association of Letter Carriers & the United States Postal Service, effective as of November 21, 2006, (Joint Exhibit No. 1), the Undersigned was selected to hear and finally decide the Union's claim that Supervisor Hugo Aldana told Grievant to go back and get your gun because that's what thieves use when they steal after Grievant requested PS Form 3996 for auxiliary assistance.

The Parties stipulate the issue to be:

Did the Supervisor Hugo Aldana violate Article 19 and Section 115.4 of the M-39 Handbook and the "Joint Statement on Violence and Behavior in the Workplace", when he demonstrated abusive behavior toward the Grievant on August 30, 2008, and if so, what is the appropriate remedy?

The parties were represented and were afforded a full and fair opportunity to present relevant evidence and to conduct direct and cross-examination of witnesses. The witnesses were all sworn. Witnesses for the Union: Grievant, Matthew Ackah; Shop Steward Hugh McElroy; Shop Steward Chesterfield Crews; and Chris Lively. Witnesses for Management: Supervisor Hugo Aldana; and Postmaster Kathy Toomer

Based on all of the evidence presented and arguments made, the Arbitrator renders this Opinion and Award.

RELEVANT CONTRACT PROVISIONS AND OTHER RELEVANT DOCUMENTS:

Article 19 of the National Agreement, Handbooks and Manuals

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to

wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. This includes, but is not limited to, The Postal Service Manual and the F-21, Timekeeper's Instructions...

Handbook M-39, Section 115.4 – Maintain Mutual Respect Atmosphere

The National Agreement sets out the basic rules and rights governing management and employees in their dealings with each other, but it is the front-line manager who controls management's attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities.

Joint Statement on Violence and Behavior in the Workplace

We all grieve for the Royal Oak victims, and we sympathize with their families, as we have grieved and sympathized all too often before in similar horrifying circumstances. But grief and sympathy are not enough. Neither are ritualistic expressions of grave concern or the initiation of investigations, studies, or research projects.

The United States Postal Service as an institution and all of us who serve that institution must firmly and unequivocally commit to do everything within our power to prevent further incidents of work-related violence.

This is a time for a candid appraisal of our flaws and not a time for scapegoating, fingerpointing, or procrastination. It is a time for reaffirming the basic right of all employees to a safe and humane working

environment. It is also the time to take action to show that we mean what we say.

We openly acknowledge that in some places or unites there is an unacceptable level of stress in the workplace; that there is no excuse for an will be no tolerance of violence or any threats of violence by anyone at any level of the Postal Service; and that there is no excuse for and will be no tolerance of harassment, intimidation, threats, or bullying by anyone.

We also affirm that every employee at every level of the Postal Service should be treated at all times with dignity, respect, and fairness. The need for the USPS to serve the public efficiently and productively, and the need for all employees to be committed to giving a fair day's work for a fair day's pay, does not justify actions that are abusive or intolerant. *"Making the numbers" is not an excuse for the abuse of anyone.* Those who do not treat others with dignity and respect will not be rewarded or promoted. Those whose unacceptable behavior continues will be removed from their positions.

We obviously cannot ensure that however seriously intentioned our words may be, they will not be treated with winks and nods, or skepticism by some of our over 700,000 employees. But let there be no mistake that we mean what we say and we will enforce our commitment to a workplace where dignity, respect, and fairness are basic human rights, and where those who do not respect those rights are not tolerated.

Our intention is to make the workroom floor a safer, more harmonious, as well as a more productive workplace. We pledge our efforts to these objectives.

BACKGROUND

Grievant, Matthew Ackah is a Letter Carrier at the Diamond Farms Post Office. Mr. Ackah filed a grievance about an alleged incident that occurred on Saturday, August 30, 2008 between Mr. Ackah and his Supervisor, Mr. Hugo Aldana.

Grievant asserts that Mr. Aldana told him to go back and get a gun because that is what thieves do when Grievant approached Mr. Aldana's desk and requested PS Form 3996 for auxiliary assistance. PS Form 3996 is a form that Letter Carriers request from their Supervisors when the postal carrier thinks that he/she will require overtime to complete their mail responsibilities for the day. Grievant asserts that he felt threatened, intimidated and provoked by the comment.

Mr. Ackah informed his Shop Steward, Chester Crews on August 30, 2008 about the incident and he also informed Shop Steward Hugh McElroy by an email Mr. McElroy received on Sunday, August 31, 2008 about what he alleges was said to him by Supervisor Aldana.

Shop Steward of Diamond Farms, Hugh McElroy, Jr. contacted Shop Steward Chester Crews to initiate a grievance. The grievance was initiated on September 5, 2008.

The Formal A meeting was held on October 3, 2008. The Step B decision dated October 10, 2008 resulted in an impasse. On October 21, 2008, Timothy W. Dowdy, National Business Agent appeals this grievance to arbitration.

POSITONS OF THE PARTIES

CONTENTIONS OF THE UNION:

The Union insists that Supervisor Aldana violated Article 19 and Section 115.4 of the M-39 Handbook and the “Joint Statement on Violence and Behavior in the Workplace.” The Union asserts that Supervisor’s Aldana’s spoken words to Grievant constitute harassment and intimidation.

The Union states that there are many instances wherein Supervisor Aldana violated the parties’ rules about respect, harassment, intimidation, and threats.

The Union declares that even though no one heard the abusive comment, it does not mean that it did not happen. The Union asserts that it has shown that this is a habitual pattern and insists that this behavior cannot be tolerated on the workroom floor. The Union is very concerned about the possibility of violence that can occur because workers are tired on this happening time and time again.

In support of its position, the Union offers three decisions: National Panel Case Nos.: Q90N-4F-C 94024977/94024038 by Carlton J. Snow, Professor of Law; Regular Panel USPS # G94N-4G-C 98091703 – NALC #2511998040 – GTS #27536 by Arbitrator Stephen A. Dorshaw; and Regular Panel USPS #194N-41-C99136168 – NALC # GTS 2348 by Arbitrator Bernice L. Fields.

The Union asks that the grievance be sustained and Supervisor Aldana be relocated and not supervise letter carriers from Diamond Farm Post Office.

CONTENTIONS OF MANAGEMENT:

Management’s position is that Supervisor Aldana has denied making this statement and should not be judged by prior settlements and grievances because it

can paint a picture that does not exist. There were no witnesses and Carriers were within hearing distance and no one wrote a statement. Management states that nothing has been proven and the burden of proof is upon the Union.

Management insists that the term “stealing” is just a common word in the workplace and is not derogatory unless there is a threat.

Management requests that this grievance be denied and that Supervisor Aldana not be punished for his past reputation.

OPINION

This is a contract grievance and the Union has the burden of proof. Contract interpretation requires an analysis of the language of the contract as applied to the specific facts and circumstances of the grievance.

Management objected at the hearing to the Arbitrator’s consideration of the Step B decision dated May 5, 2007 and the Formal Step A Resolution dated September 26, 2008 offered as supporting documents by the Union at its Formal Step A and considered in the Step B decision. As these documents were considered in the other steps, they will be considered as part of the whole record which includes testimony and evidence.

In this matter, there are no witnesses to support Grievant’s assertion of what was said to him. Therefore, the Union must uphold its burden by circumstantial evidence that supports the logical and reasonable inferences that such fact exists.

The violations asserted by the Union are to be taken very seriously. Management is committed to an environment wherein the front-line manager maintains an atmosphere which assures mutual respect for each other’s rights and responsibilities for each employer and employee. The “Joint Statement on Violence and Behavior in the Workplace” affirms that all employees are to be

treated with dignity, fairness and respect.

1. GRIEVANT MATTHEW ACKAH'S POSITION & TESTIMONY

Mr. Ackah testified that he went to Supervisor's Aldana's desk on Saturday, August 30th, 2008 to request PS Form 3996 for auxiliary assistance. Mr. Ackah said that he did so because he was instructed by management to request this form when he would not be able to complete his assessment in eight (8) hours. Mr. Ackah testified that if a Carrier does not request the form, then it is considered unauthorized overtime.

Mr. Ackah testified that when he requested this form, Supervisor Aldana responded to him that "you have to go back and get your gun." Mr. Ackah testified that he pretended that he did not hear this and just looked at Supervisor Aldana who then said it again and added "that is what thieves use when they go out and steal." Mr. Ackah testified that he just continued to look at Supervisor Aldana and resisted reacting to the provocation. Thereafter, Supervisor Aldana gave Mr. Ackah the requested form.

Mr. Ackah testified that he did not want to argue with Supervisor Aldana although he did feel that Supervisor Aldana was trying to provoke him. Mr. Ackah testified that he felt that Supervisor Aldana was trying to intimidate him to not request PS Form 3996. In Mr. Ackah's written statement, JT 2, Page 45, he wrote to Chief Shop Steward Hugh McElroy:

...Supervisor Aldana has continued to harass and intimidate me with comments such as these. He continues to attempt to provoke me so that I would jeopardize my job as a letter carrier with the USPS.

Mr. Ackah testified that other Carriers did not overhear Supervisor's

Aldana's statement to him because Carriers were rolling and there was noise on the floor.

2. SUPPORT FOR THE UNION'S POSITION

A. STEP B DECISION 5-07-07 GRIEVANCE OF CARRIER CHRIS LIVELY

The issue is: Did Management violate Article 19 of the National Agreement and the Joint Statement on Violence in the Workplace when Carrier C. Lively called back to the office and Supervisor H. Aldana hung up on him without providing instruction? If so, what is the appropriate remedy?

Carrier Lively provided a statement that he called back to the office on March 5, 2007 and Supervisor H. Aldana answered the phone. Mr. Lively informed Supervisor Aldana that he would not be returning at the authorized time and would not be back until 5:40. Mr. Lively wrote that Supervisor Aldana hung up on him and had done the same the week before. Supervisor's Aldana's position is that he did give clear instructions and that he did not want to debate his instructions and so he terminated the call.

The DPT Team decided to RESOLVE this grievance by agreeing that Management shall treat all employees with Dignity and Respect. Additionally, if a Carrier calls in the afternoon to inform management they will be unable to return to the office in the authorized amount of time, management shall give clear and concise instructions, maintaining an atmosphere of dignity and respect.

B. TELEPHONIC TESTIMONY OF CARRIER CRIS LIVELY

Mr. Lively testified that Supervisor Aldana has continued his disrespectful behavior towards him following the 5-07-07 Step B Decision.

Mr. Lively testified that Supervisor Aldana has been his Supervisor for the past two – three years and it has been a challenging relationship. Mr. Lively testified that just one month ago when he called in because he was running late, Supervisor Aldana hung up on him four times. After that, according to Mr. Lively, Supervisor Aldana called him on his cell phone and asked why he would be late. Mr. Lively told him that it is icy and dangerous and Supervisor Aldana did send some help. However, when Mr. Lively returned that day to the Post Office late, Supervisor Aldana was outside and right in his face. Mr. Lively testified that he was scared for his safety and said “Please don’t hit me.” Mr. Lively said that if he did hit him, he would have kicked his ass.

Mr. Lively testified that Supervisor Aldana has hung up on him many times; threatened to fire him several times; and has told him that he is worthless. Mr. Lively testified that the most recent statement that he is worthless was said in private and that whenever there have been witnesses, everyone is scared to come forward as a witness.

Mr. Lively testified that for the past several months almost every time he requests PS Form 3996, Supervisor Aldana tells him that he is stealing from the Post Office. He calls him worthless, but especially when he is requesting overtime.

Mr. Lively sounded very agitated on the telephone call and testified that he feels that his well being is threatened. Mr. Lively asked “where does it end?”

C. EMAIL IN SUPPORT OF CARRIER CRIS LIVELY'S TESTIMONY

Joint Exhibit 2, Page 34 is an email dated 6/22/08 from Chris Lively to Kenny at NALCbr3825.@aol.com with Letters of Warning in the subject line. The content of this email is consistent with the testimony of Mr. Lively.

Hi Kenny. How are you doing? Do you have a email address for Hugh? I am going on vacation for 2 weeks. Hugo gave me a letter of warning as a going away present. I want to email Hugh about this. Hugo's conduct is very unprofessional. This past week he threatened to fire me and accused me of stealing. Thank you for serving us so well. Chris Lively

D. FORMAL STEP A RESOLUTION SEPTEMBER 26, 2008

This resolution concerns Grievant Tom Wilson and Supervisor Aldana. Mr. Wilson did not testify at the hearing. Mr. Wilson's statement in Joint Exhibit 2, Page 32 states:

On April 2, 2008 I was called to Mr. Aldana's desk and was given a letter of warning. When I read the letter, I asked him about why it said (I was outside my case facing the distribution area.) When 30 minutes earlier in his office he said that at 8:45 am he saw me talking and gave me a PDI. When I signed the letter of warning I showed him it said nothing about talking as a time wasting practice. His response was it doesn't matter. My reply was (Its your stupidity/sic). He then asked me what I said. I told him, you heard me. He then said whats/sic a matter don't you have any balls. When I asked him what he said, I was told to shut up and do your work.

There was a witness to the above event who wrote a statement, Joint Exhibit No. 2, Page 33 which supports what was said:

On April 2nd, 2008 Supervisor Hugo Aldana and Letter Carrier Tom Wilson were going at it all morning. Tom Wilson was at the Supervisors Desk speaking to Hugo Aldana about the “letter of warning” he just received. I heard Tom Wilson say “that it does make a difference.” Hugo Aldana’s response was “What, you don’t have no balls?” Tom Wilson responded “What did you say?” Hugo responded “Shut up – go back to work.”

The Formal Step A Resolution, Joint Exhibit 2, Page 31, resolved

... It is the front-line manager who controls management’s attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other’s rights and responsibilities...

The Arbitrator acknowledges that Mr. Wilson was disrespectful to Supervisor Aldana by saying “that’s your stupidity”, but Supervisor Aldana’s disrespectful, provocative and rude response further escalated the argument which is not what front-line manager should do.

E. LETTER CARRIER AND SHOP STEWARD HUGH McELROY

Mr. McElroy was the Union representative at the Formal A meeting and is familiar with this grievance. Mr. McElroy testified that he thinks that Supervisor Aldana should be moved to another office. Mr. McElroy was also familiar with the other grievances listed above.

F. SHOP STEWARD CHESTERFIELD CREWS’S TESTIMONY

Shop Steward Crews was contacted by Mr. Ackah about the comments made by Supervisor Aldana. Mr. Crews wrote in his statement, Joint Exhibit No. 2, Page 47:

On Saturday, August 30th, I was contacted by Mathew Ackah about comments made to him by Supervisor Hugo Aldana. He seemed upset and wanted to file a grievance. He stated to me that Supervisor Aldana told him to go and get a gun when he requested auxiliary assistance on Rt. 45. He further stated that Hugo said that is what thieves use when they steal.

Mr. Crews testified that he was with Mr. McElroy when Supervisor Aldana told them both that they were Union thugs who steal. Mr. Crews testified that he responded to Supervisor Aldana that he is just following the rules set forth by the Postal Service. Mr. Crews also said that Mr. Aldana has told him that he was going to fire him. Shop Steward Crews testified that he did not find this threat “funny” coming from a Supervisor.

Mr. Crews also testified that Supervisor Aldana made snide comments to Carriers on other occasions. Mr. Crews testified that during the year 2008, he personally heard Supervisor Aldana tell Carrier Bobby Singh that he was worthless and that he was going to fire him. Carrier Bobby Singh did not testify.

Shop Steward Crews testified that when he was asked about Supervisor Aldana at the Labor Management meeting on September 10, 2008, the question that he responded to was: Did Supervisor Aldana use foul language on the work room floor. Crews responded that he had not heard foul language used by Supervisor Aldana.

Shop Steward Crews also testified that since 2008 or so, Supervisor Aldana has been more on guard and professional toward him and since that time, he has not heard anything inappropriate personally directed towards him.

3. SUPPORT FOR MANAGEMENT'S POSITION

A. SUPERVISOR HUGO ALDANA'S POSITON & TESTIMONY

Supervisor Aldana has been employed by the USPS for over twenty (20) years and he testified that he has never been disciplined. He is the Supervisor of Customer Service at Diamond Farms and Grievant's Supervisor for the past four (4) years.

Supervisor Aldana testified that he does not recall the exact conversation with Grievant on August 30th, 2008, but he did not make that comment. He testified that Grievant asks every single day for Form 3996 and he hands him one. He said that Carriers must come to his desk to request the form and that this is a Postal Service requirement.

He testified that Grievant is on an overtime list and must get overtime. He testified that the Shop Steward suggested that he switch overtime and put Grievant on another route to equalize his route.

Supervisor Aldana testified that Carriers are supposed to avoid overtime if possible and that overtime must be approved by a Supervisor and when Supervisors do not approve some or all of the overtime, Carriers don't like it and can get rebellious and negative. Supervisor Aldana testified that many times he has proven to Carriers that they do not need the overtime.

Supervisor Aldana testified that he thinks that Grievant made up this allegation because around two to three years ago, Grievant filed an EEO claim accusing him of discrimination because of his race. He testified that Grievant filed another lawsuit after that. He testified that Grievant does not follow his instructions and wants to be left alone.

Supervisor Aldana testified that he has told Carriers his personal opinion is

that they are “stealing” by asking for overtime but when the Carrier tells him that he/she did not like what he said, he will stop. Supervisor Aldana testified that “stealing” is a common word between the Carriers. Supervisor Aldana said that he doesn’t use the word “stealing” anymore since Shop Steward McElroy spoke with the Postmaster.

Supervisor Aldana testified that he does not curse anyone. He testified that he is no longer disrespectful but that he used to be. He said that if someone tells him that he is disrespectful, he will change. For example, he had been told to stop calling employees by their last name, because they did not like it.

B. TELEPHONIC TESTIMONY OF POSTMASTER KATHY TOOMER

Postmaster Toomer spoke highly of Supervisor Aldana. She testified that he is strict, but in her opinion, not the strictest. Postmaster Toomer testified that she has seen him with Carriers and that he is a good Supervisor.

Postmaster Toomer had not known about this instant grievance until the Labor Management meeting on September 10, 2008 with Mr. Tim Dowdy, Mr. Ken Lerch, Mr. Hugh McElroy and Mr. Leonard Fairfax. She testified that she was not given the courtesy to address this situation in advance of this meeting.

Postmaster Toomer’s notes from that meeting Joint Exhibit two, Page 49 reflect that the next morning the meeting continued. Postmaster Toomer testified that both the Union and Management spoke with four (4) Carriers to inquire about how they felt about the workplace. Overall, Postmaster Toomer was pleased.

Postmaster Toomer’s notes reflect that Shop Steward Chester Crews replied that he had never heard Supervisor Aldana use foul language on the floor. She wrote in her notes that Mr. Crews made some comments about overtime and the interview was ended.

4. THE APPLICATION OF THE RELEVANT CONTRACT PROVISIONS AND THE RELEVANT DOCUMENTS TO THE SPECIFIC FACTS OF THIS GRIEVANCE

The relevant contract provisions and documents require an atmosphere of mutual respect for each other's rights and responsibilities. The "Joint Statement" is very clear that "making the numbers" is not an excuse for the abuse of anyone and does not justify actions that are abusive or intolerant.

The circumstantial evidence supports the assertion that Supervisor Aldana has been abusive and disrespectful in the past and continues to be abusive and disrespectful in the workplace.

The Arbitrator is aware and respectful of the fact that it is a difficult decision for Carriers and Shop Stewards to come forward and testify against a Supervisor who holds so much power over their livelihood and workplace environment.

With regard to Carrier Chris Lively long after the 5-07-07 Step B Decision, Mr. Lively testified credibly that Supervisor Aldana, has continued to show his negative attitude towards Carriers who request overtime and that Mr. Lively has recently felt physically threatened and thought about responding physically after feeling provoked. Mr. Lively testified that within the past few months, Supervisor Aldana has continued to tell him that he is "stealing" from the USPS.

In the grievance that resulted in the Formal Step A Resolution dated September 26, 2008, concerning Grievant Tom Wilson, Supervisor Aldana was provocative towards Tom Wilson by his comment which was verified by a witness statement: "don't you have the balls?"

Shop Steward Chesterfield Crews testified credibility that in 2008 he

personally heard Supervisor Aldana tell Carrier Bobby Singh that he was worthless and that he was going to fire him.

Supervisor Aldana testified that after Shop Steward McElroy spoke to the Postmaster he was told to stop using the word “stealing”.

Grievant Ackah testified that he felt provoked by the alleged comment “to go get his gun” that Supervisor Aldana said to him and held back the impulse to react and chose instead to file this grievance.

In sum, we have credible testimony concerning many incidents where disrespectful and provocative language was used by Supervisor Aldana.

5. THE APPLICATION OF THE CIRCUMSTANTIAL EVIDENCE TO THIS INSTANT GRIEVANCE

The application of the circumstantial evidence to this instant grievance convinces the Arbitrator that it is more probable than not that Supervisor Aldana made the statement Grievant Ackah asserts that he did.

Supervisor Aldana has testified to his personal view about overtime. He testified that he thinks that Carriers that apply for overtime are “thieves”. He has expressed his “personal opinion” in abusive words and disrespectful actions towards the Carriers who have followed Postal Service procedures and requested overtime. Supervisor Aldana’s personal opinion differs from the position of the Postal Service. He has expressed his personal view by hanging up the telephone when Carriers call to request assistance, and by calling Carriers thieves, worthless, and threatening Carriers with termination.

6. ARBITRATORS HAVE THE AUTHORITY UNDER THE SNOW DECISION TO DISCIPLINE SUPERVISORS

At the hearing, Management did not dispute the Arbitrators' authority under the Snow Decision to discipline Supervisors. The Arbitrator's authority is stated in Arbitrator Bernice L. Fields decision dated November 1, 2000, USPS Case No.: 194N-41-C99136168 – NALC Case No.: GTS 2348 at page 6 citing National Arbitrator, Professor Carlton Snow in Arbitration Q90-4F-C 94024994/94024038:

“The grievance procedure of the National Agreement [Article 15] may be used to enforce the parties' bargain, and arbitrators have available to them the flexibility found in arbitral jurisprudence when it comes to formulating remedies, including removing a supervisor from his or her administrative duties.”

IN CONCLUSION

Supervisor Aldana has been warned and advised to stop his abusive language and actions on many occasions in the past. He has done some correction, but much more is needed. He testified that he is willing to change his ways after being informed that he is acting in a disrespectful way. The problem is that there was no testimony about training or education being done *proactively* to teach Supervisor Aldana the behavior and words that must be eliminated because they are disrespectful behaviors. From Supervisor Aldana's testimony, it does not appear that he realizes what disrespectful behavior is *before* he is told through the grievance process or a complaint that he has been abusive or disrespectful. The testimony documents that Supervisor Aldana has continued disrespectful behavior even *after* being so informed, for example towards Carrier Chris Lively.

Supervisor Aldana's personal opinion and expressions thereof on Carriers' being "thieves" for requesting overtime must be eliminated from the workplace. It is offensive, provocative, and disrespectful. Supervisor Aldana must only enforce and reflect the rules and positions of the Postal Service, not his own personal views.

This arbitrator understood from Supervisor Aldana that he felt that he was doing his job the best way that he thought he should. He needs training to be aware of other people's sensitivities so as not to offend them *before* the fact. This arbitrator hopes that he can continue to work as a Supervisor after such training along with understanding that his personal views and attitudes must be left at home. At work, a USPS Supervisor should only reflect the attitude and rules of the USPS. As stated in the "Joint Statement on Violence and Behavior in the Workplace": "*Making the numbers*" is not an excuse for the abuse of anyone....


Of great concern is the testimony of witnesses including Grievant, who spoke about their feelings of being provoked and /or insulted or disrespected or abused. Of even more concern is the testimony of Carriers including Grievant which indicates using personal restraint to not react aggressively after feeling provoked. There have been too many incidents of abusive behavior by Supervisor Aldana and for too long a period of time at Diamond Farms Post Office to risk continuing this abusive behavior which holds open the potential for violence.

Therefore, based on the facts and circumstances of this particular case, the Undersigned issues the following award:

AWARD

1. The Grievance is sustained and the Postal Service will reassign Mr. Aldana to a Supervisor's position at another Post Office or any other position at another Post Office as it deems appropriate.
2. Within three months (3) months of this decision, Supervisor Aldana shall receive sensitivity training – training geared to learning how to proactively avoid words and actions that can be perceived as disrespectful or intimidating by others as well as training to only reflect the positions of the USPS and not his own personal positions or views, especially with regard to overtime.


March 17, 2009
Keswick, Virginia


Ellen S. Saltzman
Arbitrator

AFFIRMATION

COMMONWEALTH OF VIRGINIA)
COUNTY OF ALBEMARLE)

I, Ellen S. Saltzman, Esq., affirm on my oath as arbitrator that I am the individual described in and who executed the foregoing instrument which is my Opinion and Award.


Ellen S. Saltzman