

THE SAN FRANCISCO REGION

SENTINAL



ISSUE #2

2018; THE YEAR TO PROTECT CLERK CRAFT WORK

From the Desk of: Chuck Locke

I am glad to report that the excessing in the Sacramento District has been reduced to only two installations but I am still working on getting those impacts rescinded also. As we all know, there is no need to excessing. Most of our offices are understaffed!

Let's make 2018 the year to protect clerk craft work. We need to put a stop to management performing our work. File grievances when carries are crossing over into our craft and file when mail handlers are performing our work. We need to file MDAT grievances to identify the newly created duty assignments that management has failed to post. We can no longer just sit back and allow management to give away our clerk work. We need all of our members to be diligent and give statements to the Union when this occurs. Together we can be successful in maintaining the work that belongs to the clerk craft.

If you have PSE's or PTF's working in your office and we can show a 40 hour a week position, we need to be filing grievances. MDAT is a wonderful tool if we utilize it. This program automatically generates full time duty assignments based on the hours utilized in your office. It's hard for management to argue these cases since they are responsible for scheduling the work hours.

The APWU has fought hard to get the TAC's work back from management but I have yet to find an office where the Lead Clerk is performing the timekeeping duties. This is clerk work and your managers are violating Article 1.6 of our collective bargaining agreement by doing TAC work. It's no different than management working the window or running a DBCS machine. It's time to file and get our work back. There is a TAC report called, "User Log Report", which show what supervisor did the TAC's input and the amount of time they were logged into TACS to perform our work. It is hard for management to deny their own login records. We just need to file the grievances and get our work back!

When management plans on assigning an injured carrier or mail handler into the clerk craft, they are required to notify the local union president prior to putting them in our craft. If management fails to do this, it violates Article 13 of our collective bargaining agreement. We need to argue that the carrier or mail handler is improperly working in the clerk craft and request the clerk craft be compensated. Unless it cost the Postal Service money, they don't care about violating our contract.

WHY ARE THEY SO AFRAID OF WRITING A STATEMENT?

From the Desk of: Sonia Canchola

I often get this question from not only new stewards but from seasoned stewards as well. I had to think back to when I was a local steward. Honestly, the answers can often be very harsh. However, if you are a steward because you care about your office, you care about your fellow co-workers, you care about your union then you will hear me out. We should always be in learning mode and what I'm going to tell you I was told by one of my career mentors at one point or another.

So, here it is. Most of our members are afraid of writing a statement for a grievance because most likely they fear of retaliation or have been retaliated against by local management. But often times, the damage was caused by the local union. What damage do you ask? Well, there are a few. #1: The employee put themselves out there with a statement for a grievance hoping that a grievance is going to be filed (as expected) but there was no movement done on that grievance. Sometimes we as stewards become so overwhelmed and before you know it, our case is untimely. #2: The local steward didn't follow up with the employee. Sometimes it's just a misunderstanding where the steward didn't give the employee a copy of the grievance. It could have been a simple oversight but bottom line the grievant is due a copy of his/her grievance. Often our members lose faith in us. #3: They never see the union steward/President in that office. I remember back when I was a steward and I would ask my local officer to come to my office for a visit. Just to let management know "this office is not forgotten and that they (management) cannot run amuck". I know that when I was a local steward I insisted that my union officer come to my office on a regular basis. Not only did that give me (a steward) strength knowing I have a union officer who has my back but it sent my co-workers a message that they have someone who's got their back too. But most importantly, I had knowledge when my union officer walked into my office. We as stewards all started off the same, not knowing very much. To make matters worse, just as you feel you have grabbed a handle on the contract, the contract changes and again, we tend to feel unsure of ourselves and tend to look towards our union officials and national officers. That in itself is a great idea. But now, as a local

union official, president, craft director, business agent, are you available to your stewards? Do you return your stewards calls? Do you invest time in your stewards training? I'm a firm believer that I will reap what I sow. In other words, if I put an effort in people, people will produce good grievances.

I understand that we are all very busy, and have large areas to cover in our locals. But, we cannot forget our commitment. We made a commitment to helping our members and our stewards. When we help our members by showing up in their offices it helps our stewards and it will hold management at bay knowing that "this office is not forgotten". It is imperative that you as a union official, president, craft director, business agent return your members calls, return your stewards calls. It's not about only going into these offices during election time but all the time. That is our commitment!

During the Martin Luther King Holiday, California Area Local hosted a steward training. We had participants from as far as Oxnard and San Clemente. We had 56 stewards who took advantage of President Gordillo's opportunity to learn. We had very new stewards and we had a few seasoned stewards as well. Again, we joined California Area Local and conducted our second symposium so far. The first one was on Article 3, 15, 16 and 17. This one was more specific on discipline and learning how to prepare your cases to step 2. We will have another one soon where we will focus on violations that include Crossing Crafts and how to file a grievance on Injured employees when working in our craft. If you are a local president and are interested in hosting a Steward Symposium please reach out to me or one of the other clerk craft NBAs, so that we may get one scheduled.

In the beginning of this article I mentioned it would be a harsh. I suggest you do a little soul searching and see how you can improve your commitment. Remember, we are all learning.

In solidarity,
Sonia

**IF YOU SAY IT, ASSERT IT AND/OR ALLEGE
IT....PROVE IT !**

From the Desk of: Shirley Taylor

We receive quite a number of grievances which require additional documentation. I believe it is because our stewards think that if they simply quote the Collective Bargaining Agreement, (which should be crystal clear to anyone with a grain of common sense) the grievance will be granted. It is a grievance about overtime and you know the supervisor knows who was bypassed and who the supervisor scheduled to bypass the grievant. *(Note: If you interview anyone, the steward should always make a written signed and dated statement about the interview.... Sisters and Brothers, it is not enough to simply state what was said in the grievance! Remember, you are a witness to what happened in the interview and said interview must be documented).* The grievance form does not have the grievant's EIN number or seniority date. The grievance is denied at Step 2 and is appealed to Step 3. There is no copy of the OTDL in the file, the supervisor who did the scheduling has not been interviewed, there are no TACs for the grievant or for the person who bypassed the grievant. In fact, the grievance has not identified who bypassed the grievant. The remedy requests that the employer pay for the number of hours (not specified) which the grievant was bypassed at the overtime rate. The grievance does not say if the employee who bypassed the OTDL employee was also on the OTDL or not. *(the correct remedy is found in the JCIM).* This grievance is going nowhere because even though everyone in the office knows that what the union asserts to be true, once it leaves the facility unless we have documented our assertions, there is nothing in the file to back up our assertions.

Now, what about that holiday grievance we need to file. The very first documentation which MUST be in the file is a copy of your LMOU excerpt which covers the negotiated pecking order for the Local. A review of the file shows it is not there. There may be a copy of the holiday posting but that does not tell the Step 3 individuals who should have worked and who should have not worked. There is no interview of the supervisor who made the schedule so we can ascertain why they did not schedule employees pursuant to the LMOU. The file does not have written, dated and signed statements from the employees who did not work and should have

worked nor statements from the employees who worked and should not have worked. There are clock rings, but not for the employee who did not work but should have worked. A review of the file reveals that there are no EIN numbers for any of the employees so that if the grievance is granted, we can get the employees paid right away. *(The correct remedy is located in the JCIM)*

Believe it or not, we actually received discipline cases which do not contain the notice of discipline as well as not having any written statement from the grievant. Is the allegation of wrong doing true or not? Have we interviewed witnesses? Have we interviewed the supervisor who issued the discipline? If a suspension or removal is involved, do we have what happened in the just cause interview or in the investigative interview. *(Please be aware that they are same thing!)* Is there a copy of a request to interview the individuals involved and were ALL of the Locals requests granted? Is the OIG involved? If so, is there a copy of their report in the file? If the discipline is about attendance, why do we not have copies of any medical documentation submitted by the grievant in the file? While we have a copy of the PS Form 3972, we do not have copies of the PS 3971's which the employee submitted for the leave. If there are previous elements of discipline cited, what is the status of each of these elements?

We also receive the crossing of craft grievances which does not have the OTDL list and the identity of the employee who was available to work the assignment given to the other craft (NALC, Mailhandlers, Maintenance) who worked in the clerk craft. There is no interview of the supervisor who scheduled the none clerk craft employees. There is no request to interview the available clerk OTDL employees or the none clerk craft employees. There are clock rings but not for the none clerk craft employees. If the none clerk craft employees show they were not clocking into the clerk craft operation, we need to know why the supervisor did not tell them to do so. If there is a matter of MH's vs Clerk craft, where is the RI-399 document? If you do not access to the RI-399 document, have you questioned the supervisor explicitly about whether they know that the work in dispute is clerk craft work? Get anyone interviewed on the record as early as possible.

Finally, if it a 37.3.A.1 issue, where is the MDAT information? The NBA's have been instructed to close these cases if is not contain MDAT. If the grievance does not follow the template sent from APWU Headquarters it should not ever get to Step 2 of the grievance procedure.

These are just some examples where it may appear that grievances can and should be resolved at the local level. We cannot rely on that being the case. The burden of proof in contract cases is on the union and we must prove that what we say, assert or allege is factual! *Remember, the burden of proof can sometimes shift to the union in discipline cases, so as much as would like to, we cannot simply depend on the word of the grievant. For instance, if the grievant says they were not AWOL because they called in, do they have proof that the call was made? Is it true that the grievant had only requested sick leave after being denied annual leave for the day? Did the employee put a slip leave request for an upcoming appointment and the employer returned it denied saying it was to early for the employee to submit the request and then when the request is resubmitted, say it is unscheduled because it was not submitted and approved in advance?*

Your NBA's know that you are not given enough time on the clock to do your grievances and we understand that a lot of employees are afraid to give you a statement. We understand that employer representatives give you the run-around and that members sometimes give you a hard time. ***Please know that I very much thank you and appreciate the work you do for your fellow employees.*** The purpose of this article is not to criticize you, but to give you guidance so that when you file grievances, you are aware of what the union needs to do in order to prevail before an arbitrator if the matter has to be settled in arbitration. Unfortunately, employees retire, pass away, transfer, go into management or quit the union between the time the grievance is filed and the matter is heard at arbitration. This article is just to remind you that we must strike while the iron is hot. Take heart, we've got your back! The struggle continues!!

SCHEDULED VS. UNSCHEDULED

FROM THE DESK OF: JAMES SCOGGINS

The USPS has stepped up their attacks on attendance related issues; therefore, I would like to dedicate this article to unscheduled absences. Contractually, only unscheduled absences may be cited in disciplinary actions (e.g. letters of warning, suspensions, removals, etc.); with the exception of those unscheduled absences protected under FMLA. Therefore, the primary focus will be on reducing unscheduled absences. To do this we must first understand what an unscheduled absence is; the Employee & Labor Relations Manual (ELM) defines an unscheduled absence as follows:

"Unscheduled absences are any absences from work that are not requested and approved in advance." (Ref: ELM 511.41)

What this means is that in most instances when a person picks up the phone and calls the USPS to notify them that they will not be coming in it will most likely be categorized as an unscheduled absence.

The next question is does an employee have a contractual responsibility when it comes to unscheduled absences and the answer is yes. In this regard, ELM 511.43 reads as follows:

"Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required."

It must first be noted that there are some absences that just cannot be anticipated and/or avoided. However, there are just as many instances, if not more that can be anticipated. For instance, colds, flus, allergies, etc. generally do not hit us without some kind of advance warning signs. And those of us with chronic illnesses will oftentimes get some type of advance warning prior to an incapacitating occurrence. Whenever, our bodies give us advance indicators that an illness is coming on we should complete a PS Form 3971 and submit it to the supervisor in advance, notifying them of the need for a future absence. Now I know most of you that

are reading this article are probably saying “***you don’t know the jerk of a supervisor that I have; they are not going to approve anything in advance***” and most, if not all of you that are thinking and/or saying this is probably right. However, I want to redirect you back to the ELM 511.43 language, which states in relevant part that every employee must make every effort to avoid unscheduled absences; the key to this language is making the effort. When you make an effort to schedule an absence and your supervisor denies the request, we advise you to do the following:

- ✓ Make sure you get a copy of the 3971 to record your efforts and management’s response to your efforts. *Please note that ELM 512.421 and ELM 513.341 requires the 3971 to be submitted in duplicate for this reason.*
- ✓ File a grievance
- ✓ Bring acceptable evidence (e.g. medical certificate, etc.) of the reason for the absence. *It is understood that normally medical documentation is not required for absences of three days or less; but in these types of instances it is advised that you get the medical documentation and as part of the requested remedy for the grievance that was filed you may request reimbursement for your co-pay or other expenses that may be related to getting the medical documentation.*

Please be advised that when we take the appropriate steps to avoid all of the unscheduled absences that we can, the unexpected will not be that overwhelming. It is also understood that there are periods in everyone’s life where it seems that whatever bad that could happen, happens; but these types of instances generally do not last year after year after year. However, when these rough periods do occur, let someone know. Tell your shop steward, local officer and/or local president for guidance and/or assistance and voluntarily seek the assistance of EAP. Remember Article 35, Section 1 of the CBA states in relevant:

“An employee’s voluntary participation in the EAP for assistance with alcohol and/or drug abuse will be considered favorably in disciplinary action proceedings.”

It is also notable that EAP is not just for alcohol/substance abuse, but also assisting employees and their families that may be experiencing other family and/or personal problems which could or do have a negative impact on a person’s work performance. (Ref: Article 35, Section 1.2)

If everyone truly makes every effort they can to avoid unscheduled absences and/or seek assistance in addressing personal/family situations that are resulting in unscheduled absences, it will make it that much easier for the Union to combat any discipline that may be issued.

Our hopes are to try to put a greater focus on assisting everyone on how to avoid getting into trouble, rather than waiting and trying to get people out of trouble after-the-fact, which possibly could be too late.

God Bless you all,

James