

CASE: SCHNEIDER #7

EXPEDITED ARBITRATION PANEL

IN THE MATTER OF THE ARBITRATION
BEDNEEN,

Grievant: Class Action

-and-

UNION,

BEFORE:

Karen Bush Schneider, Arbitrator

TYPE OF GRIEVANCE:

Contract

AWARD SUMMARY

The grievance is denied.

Karen Bush Schneider, Arbitrator

ISSUE

Did the Employer violate any provision of the Agreement, EMPLOYMENT MANUAL or Local Memorandum of Understanding in the creation and implementation of the designated holiday work schedule for May 27, 2000?

The Union responds, "Yes."

The Employer responds, "No."

POSITION OF THE UNION

Article 11.6.8 of the Agreement provides:

As many full-time and part-time regular schedule employees as can be spared will be excused from duty on a holiday or day designated as a holiday unless all casuals and part-time flexibles are utilized to the maximum extent possible even if the payment of overtime is required, and unless all full-time and part-time regulars with the needed skills who wish to work on the holiday have been afforded an opportunity to do so. [Emphasis added.]

The Employer scheduled approximately 25 non-volunteer full-time and part-time regular employees to work on May 27, 2000, which was a designated Saturday holiday preceding Memorial Day. On that date, only six of eight casual employees worked, along with 35 part-time flexible employees. (See Joint Exhibit "5," and Union Exhibit "1 .") None of those employees worked up to the maximum 12 hours in a day, nor put in any appreciable overtime. (Id.)

Casuals and part-time flexibles should have been scheduled up to the maximum 12 hours and utilized so as to have required the fewest number of non-volunteer regular employees to be scheduled for duty. Casual and part-time flexible employees could have been called in before Tour 1 for overtime and worked available processing

machines, broken down service, and performed other tasks so as to minimize or eliminate the number of non-volunteer regular employees scheduled for duty on their designated holiday.

The Union requests the payment of a 50 percent premium for non-volunteers who worked on May 27, 2000.

POSITION OF THE EMPLOYER

Article 3 of the Agreement recognizes the right of the Employer to direct employees in the performance of their official duties, maintain the efficiency of operations, and determine the methods, means, and personnel by which said operations are to be conducted. Article 11 only guarantees that regular employees will have a designated holiday off if Employer operations can be conducted "to the extent possible" through casuals, part-time flexibles, and regular volunteers.

In connection with the designated holiday of May 27, 2000, SUPERVISOR Greg Glass testified that she posted the holiday schedule on the preceding Tuesday. In making the schedule, SUPERVISOR Glass endeavored to schedule all casual and part-time flexible employees within their job skills, along with regular volunteers. Nonetheless, it was still necessary to schedule a number of non-volunteer regulars in order to ensure that Tour 1 was operated efficiently and that service was provided to customers on what was otherwise a regular delivery day.

It was not possible for the Employer to schedule Casuals and part-time flexible employees for pre-Tour 1 overtime since it was impossible to know in advance whether certain machines would be available for processing and what type of material would need to be processed on that day. According to SUPERVISOR Glass, work volume

is particularly heavy at the beginning and end of each month. Further, it is incumbent on the Employer to deliver as much work as possible before a holiday, that being Memorial Day Monday, so as to minimize delivery delays and high volumes of work following a holiday.

The Employer maintained that scheduling holidays is an "art," not a "science," and has to be done using a combination of probability and past experience. The Employer strives to avoid scheduling non-volunteer regulars on holidays since it is contrary to the Agreement, and would cost the Employer more in the long run, since non-volunteer regulars are entitled to a guaranteed eight hours of pay. In this case, SUPERVISOR Glass tried to schedule adequately, but was even understaffed in a couple of areas. The two casual employees who did not work on May 27, 2000, had been scheduled, but called in sick on that day.

The Employer requests that the grievance be denied.

OPINION

The Arbitrator has carefully considered the testimony, exhibits, and arbitration awards presented by the parties and finds that the grievance should be denied.

Article 11.6.8 of the Agreement provides that full-time and part-time regular schedule employees shall not be required to work on a day designated as their holiday unless all casuals and part-time flexibles are utilized to the maximum extent possible, even if payment of overtime is required and after all volunteers have been afforded the opportunity to work. In the instant case, the Employer has demonstrated that it did, in fact, schedule all casuals and part-time flexible employees, along with regular volunteers before "drafting" non-volunteers to work on May 27, 2000. The two casual

employees who did not work that day had in fact been scheduled, but called in sick. The Employer had no control over their unavailability.

SUPERVISOR Glass testified convincingly that the Employer could not schedule casuals and part-time flexibles for the maximum 12 hours so as to avoid calling in non-volunteer regular employees. Necessary work processing machinery would not necessarily have been available prior to Tour 1 and all work necessary for processing and distribution would not have been on site. Thus, even if the Employer had scheduled all casuals and part-time flexibles for a 12 hour tour, it wouldn't have obviated the necessity for calling in non-volunteer regulars. The pre-tour overtime would likely have resulted in unproductive down time.

There was no evidence on the record to persuade this Arbitrator that the Employer acted arbitrarily so as to deprive non-volunteer regulars of their designated holiday. The day in question was a regular work delivery day and necessitated a full complement of staff (approximately 80 employees). According to the schedule, only the minimum number of employees were scheduled. (See Joint Exhibit "4.")

As other arbitrators have found (Numerous arbitration sites were deleted from this decision.) holiday scheduling is not an exact science. It requires that the Employer make some

predictions based upon probabilities and its past experience. In this case, the Employer acted within the confines of the Agreement and EMPLOYMENT MANUAL in scheduling staff on May 27, 2000.

AWARD

The grievance is denied.

Karen Bush Schneider, Arbitrator