

AMERICAN POSTAL WORKERS UNION, AFL-CIO
 Greater Los Angeles Area Local

STEP 2
APPEAL TO ARBITRATION
GRIEVANCE FORM

Cert. #

GRIEVANT- PERSON OR UNION	WORK LOCATION CITY, STATE, ZIP CODE	USPS GRIEVANCE #	
BAILEY, COURTNEY	LOS ANGELES, CA	1F-21C-1F-D23285497	
DISCIPLINE (NATURE OF) OR CONTRACT (ISSUE) 7 DAY SUSPENSION	CRAFT CLERK	DATE OF STEP 2 RECEIVED: 06/12/2023	APWU GRIEVANCE # P3D-480-23C

TO: Labor Relations Appeals **DATE of APPEAL:** 6/21/2023
US Postal Service
P.O. Box 25398
Tampa, Florida 33622-5398

Please be advised that pursuant to Article 15, Section 2 Step 2(h) of the Collective Bargaining Agreement, the Union hereby is **Appealing the above-referenced grievance to arbitration. This appeal includes a copy of the Step 2 appeal form : Management designee in said instant matter failed to render an accurate written step 2 decision to the local in violation of the CBA and the Union transmitted to the Employer’s representative a written statement setting forth correction or additions deemed necessary by the union. Favorable decision should be rendered to the local. Grievance hereby appealed to the next step of the grievance arbitration procedures. Local’s positions argument and request retained. Management failed to released all requested information to the Local .**

Check if Applicable
 The Postal Service refused or failed to render a written Step 2 decision within the prescribed time limits and to provide the union a full statement of the Employer’s understanding of (1) all relevant facts, (2) the contractual provisions involved, and (3) the detailed reasons for denial of the grievance.

Local Union (Name (O F)	Address	City	State	Zip
Greater Los Angeles Area Local	P.O Box 60418	Los Angeles	Calif.	90060

**SUBMIT UNION’S REGIONAL COPY WITH FILE TO:
 NATIONAL BUSINESS AGENT**

Fabiola Dominguez, Clerk NBA
 Louis M. Kingsley, Jr. Maintenance NBA
 Jerome Pittman, MVS NBA
150 E. Colorado Blvd. #208
Pasadena, CA 91105

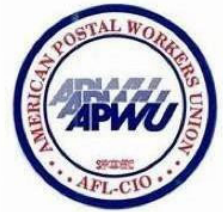
Sincerely,
 Vicki Toliver, President.
 cc: Vicki Toliver President L.A. Local
 Authorized Union Rep.
Omar Gonzalez,, COORDINATOR
As Authorized by President Mark Dimondstein

Please Check the Expedited or Regular Arbitration panel box based on type of grievances listed that may be appealed from Step 2 to Arbitration pursuant to Step 2 (h) of the National Agreement.

- | | |
|---|---|
| <input type="checkbox"/> Expedited Arbitration Panel Issues: <ul style="list-style-type: none"> • AWOL • Letter of Warning • Suspension of 14 Days or Less • Letter of Demand of Less Than \$2,000 • Withholding of Step Increases • Article 25-Higher Level Assignments • Individual Grievances for: Overtime, Annual Leave, Sick Leave, Leave Without Pay, Court Leave, Restricted Sick Leave, Requests for Medical Certification, Holiday Scheduling, Clerk Craft Seniority Disputes | <input type="checkbox"/> Regular Arbitration Panel Issues: <ul style="list-style-type: none"> • Suspensions of More Than 14 Days of Discharge • Indefinite Suspension Crime Situation • Emergency Procedure • LMOU Disputes- Grievances where the primary article(s) or dispute(s) being grieved is over the interpretation, application of, or compliance with the Local Memorandum of Understanding • Safety and Health |
|---|---|



**GREATER LOS ANGELES AREA LOCAL
American Postal Workers Union, AFL-CIO**



18411 Crenshaw Boulevard, Suite 160, Torrance, California 90504
(424) 396-3046 (Office) (424) 396-1946 (Fax)

GREATERLAAPWULOCAL64@GMAIL.COM

Submitted Electronically: 6/13/2023

DATE: June 13, 2023

[X] Nancy Kashafi

LAPDC

7001 SOUTH CENTRAL AVENUE
LOS ANGELES, CALIFORNIA 90052

RE: INCOMPLETE / INACCURATE DECISION!

GRIEVANT: BAILEY, COURTNEY

CASE INVOLVING: 7-DAY SUSPENSION

GRIEVANCE NO.: P3D-480-23C **GATS:** 1F21C-1F-D 23285497

ADDENDUM ()

Pursuant to Article 15, Section 2 Step 2g of the C.B.A. the Los Angeles Local hereby transmits the following statement(s) to be included in the grievance record / moving papers.

[X] Decision Letter Incomplete / Inaccurate:

Management has failed to establish just cause to issue 7-Day Suspension. Management failed to consider the evidence of record, failed to issue appropriate discipline, failed to fully investigate, and failed to consider the individual circumstance of the employee. The Union has fully satisfied its burden and the ultimate burden of proof lies on management in a disciplinary grievance. The Step 2 Designee's role is to look at all the facts to determine if a violation occurred. EL-921 encourages supervisors and managers to admit when they are wrong and resolve grievances at the lowest step. Discipline is not corrective in nature and is punitive, the letter of warning cited in the past elements section has not been resolved. Management has failed to establish just cause. Grievance is timely, extension was secured on May 10, 2023 to extend the time limits until May 11, 2023.

[X] The decision letter does NOT address all relevant factors:

Management is prohibited from taking unilateral actions affecting wages, hours and working conditions. Management has not established evidence that the employee was forewarned of any rule. Article 3 does not give management the right to violate the collective bargaining agreement and violate employee's rights to corrective discipline. The supervisor failed to administer the leave policy. Leave records were not kept and maintained. The AWOL was automatic and they are not procedural. There are several violations of the collective bargaining agreement when arriving at the decision to issue discipline.

[X] The decision letter does not include all contractual provisions relied upon / involved and / or give detailed reasons:

ARTICLE 3

MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

ARTICLE 5

PROHIBITION OF UNILATERAL ACTION

The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Article 5 Section 8(d) of the National Labor Relations Act, which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.

ARTICLE 16

DISCIPLINE PROCEDURES

Section 1. Principles In the administration of this Article, a basic principle shall be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause such as, but not limited to, insubordination, pilferage, intoxication (drugs or alcohol), incompetence, failure to perform work as requested, violation of the terms of this Agreement, or failure to observe safety rules and regulations.

Section 2. DISCUSSIONS

For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor.

Charquita Rainey

Charquita Rainey
Director, Clerk Craft cc
Grievant / Step 2 File



June 12, 2023

RE: Step 2 Grievance Appeal

Charquita Rainey
APWU

Step 2 Grievance Decision
Installation: Los Angeles P&DC
Installation Finance: #054531
Grievant: **Bailey, Courtney**
EID#: 04479960
Incident Date: 4/26/2023
Area#: 1F 21C-1F-D 23285497
Local#: P3D-480-23C



A Step 2 Grievance Appeal Meeting was held between Nancy Kashafi, Step 2 Designee and Charquita Rainey, APWU Union Representative regarding a 7-day suspension dated 4/26/2023.

- **The grievant accumulated 88 hours of unscheduled absences from 1/19/2023 through 3/31/2023, she was also issued a LOW on 12/20/2022 for 74 hours of unscheduled absences including 8 hours of AWOL.**

The union request to rescind the 7-day suspension.

The grievance is untimely at step one.

The grievant has violated ELM 511.41 which states unscheduled absences are any absence from work that are not requested and approved in advance. ELM 511.43 which states 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, ELM 665.41 which states employees are required to be regular in attendance, failure to be regular in attendance may result in disciplinary action, including removal from the Postal Service.

The 7 days was issued for Just Cause:

The Postal Service has an Attendance Policy that has been posted on the employee bulletin since Jan. 10, 2007, and there is the Employee & Labor Relations Manual in Section 511.43 it states that employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences, also Section 666.81 states that employees are required to be regular in attendance.

The Postal Service is responsible for accepting, processing a delivering the mail, without employees being regular in attendance, the Postal Service cannot meet standards or incur the unnecessary cost.


An investigative interview was scheduled on 4/17/2023 to afford her the opportunity to explain why she has not come to work and a chance to tell her side of the story and provide any documentation that might mitigate her continued absences. The grievant responses were not acceptable as all employees are required to be regular in attendance. The grievant continued unscheduled absence hurt the operation i.e., The operation was disrupted, management had to pay others at the overtime rates, other employees who do come to work are harmed when they must cover, and finally it hurts our brand when the mail is late arriving to its destination at the stations. The grievant failed to follow the Postal Services rules and regulation regarding the attendance policy.

The grievant failed to adhere to the Postal Service's rules and regulations, when employees do not adhere to the rules and regulations and attendance policies, it is costly to the Postal Service when their part must be covered with overtime by other employees.

Management takes the position that there has been no contractual violation and have been following the National Agreement, it is always the employee's responsibility to adhere to the attendance policy.

For these reasons, it has been determined issuing the 7-day suspension was appropriate, corrective in nature and management has established "just cause".

This grievance is **DENIED**.


Nancy Kashafi
Step 2 Designee

**STEP 2 GRIEVANCE
APPEAL FORM**

**American Postal Workers Union, AFL-CIO
Greater Los Angeles Area Local 64**



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CLASS ACTION or GRIEVANT NAME (Last Name First)		ADDRESS		CITY	STATE	ZIP	PHONE NO.
EIN	CRAFT	LEVEL	STEP	DUTY HOURS	OFF DAYS	E-MAIL	
JOB NO./PAY LOCATION (UNIT/SEC/CR/STA/OFC)				WORK LOCATION CITY AND ZIP CODE		SENIORITY DATE	PREF. ELIGIBLE <input type="checkbox"/> YES <input type="checkbox"/> NO
STEP 2 AUTHORIZED UNION REP (NAME AND TITLE)				AREA CODE PHONE (OFFICE)		E-MAIL	
LOCAL UNION PRESIDENT (NAME)				AREA CODE PHONE (OFFICE)		E-MAIL	
STEP 1 MEETING AND DECISION							
UNIT/SEC/BR/STA/OFC		POSTAL INSTALLATION LEVEL		DATE/TIME		USPS REP - SUPR	INITIALS <small>(ONLY VERIFIES DATE OF DECISION)</small>
STEP 1 DECISION BY (NAME AND TITLE)				DATE/TIME		GRIEVANT AND/OR STEWARD	
DISCIPLINE		CONTRACT			LOCAL GRIEVANCE NO.		
TO: USPS STEP 2 DESIGNEE (NAME AND TITLE)		INSTALLATION/SEC.CEN/NDC		PHONE NO.		USPS GRIEVANCE NO.	
FROM: LOCAL UNION (NAME OF)		ADDRESS		CITY	STATE	ZIP	
Pursuant to Article 15 of the National Agreement we hereby appeal to Step 2 the following Grievance alleging a Violation of (but not limited to) the following: NATIONAL, (Art./Sec.) LOCAL MEMO (ART/SEC) OTHER MANUALS, POLICIES, L/M MINUTES, ETC.							
DETAILED STATEMENT OF FACTS/CONTENTIONS OF THE GRIEVANT							
<i>List of attached papers as identified</i>							
CORRECTIVE ACTION REQUESTED:							

[Handwritten Signature]

SIGNATURE

TITLE OF AUTHORIZED LOCAL UNION REP .

DATE



Local Grievance number: P3D-480-23C

APPEAL FORM

1. FTR CLERK COURTNEY BAILEY WAS ISSUED A 7-DAY SUSPENSION DATED APRIL 18, 2023, CHARGING HER WITH "FAILURE TO MAINTAIN REGULAR ATTENDANCE.
2. GRIEVANT HAS BEEN EMPLOYED WITH THE POSTAL SERVICE AND CONVERTED IN 2020.
3. THE 7-DAY SUSPENSION WAS BASED SOLELY ON ABSENCES THAT TOOK PLACE ON JANUARY 19, 2023-MARCH 31, 2023. ALL OCCURRENCES WERE FOR HER CHILDREN ILLNESS.
4. THE GRIEVANT NOTIFIED MANAGEMENT OF HER INABILITY TO REPORT FOR DUTY. MANAGEMENT HAS NOT SHOWN THAT THERE WAS AN INCREASE WORK LOAD THE DATES IN QUESTION AND THAT THE ABSENCE REQUIRED THEM TO SCHEDULE OVERTIME OR HIRE ADDITIONAL PERSONNEL. MANAGEMENT HAS NOT SHOWN ANY EVIDENCE TO SUPPORT THE EMPLOYEE'S SERVICE COULD NOT BE SPARED ON THE DATES SHE WAS UNAVAILABLE TO REPORT. GRIEVANT WAS HOSPITALIZED AND THERE IS NO INDICATION THAT ABSENCES WERE DESIGNATED UNDER FMLA OR IF A CASE WAS APPROVED/DISAPPROVED.
5. THE AGENCY FAILED TO CONSIDER THE GRIEVANT'S RESPONSES DURING THE INVESTIGATIVE INTERVIEW AS MITIGATING CIRCUMSTANCES. MANAGEMENT DID NOT RECOGNIZE THE FACT EMPLOYEE HAD EMERGENCIES PREVENTING HER FROM REPORTING.
6. RULES MUST BE REASONABLE. THE RULE THAT AN EMPLOYEE MUST REPORT TO DUTY WHILE ILL, DEPENDENT CARE OR OTHER EMERGENCY RELATED ISSUES UNDER THE CIRCUMSTANCES SURROUNDING THIS CASE IS UNREASONABLE.
7. ARTICLE 16 OF THE NATIONAL AGREEMENT STATES: "IN THE ADMINISTRATION OF THIS ARTICLE A BASIC PRINCIPLE ISHALL BE THAT DISCIPLINE SHOULD BE CORRECTIVE IN NATURE, RATHER THAN PUNITIVE. NO EMPLOYEE MAY BE DISCIPLINED EXCEPT FOR JUST CAUSE..."
8. MANAGEMENT LACKED JUST CAUSE TO ISSUE THE DISCIPLINE IN THIS CASE. THE DISCIPLINE WAS PUNITIVE, RATHER THAN CORRECTIVE IN NATURE.
9. MANAGEMENT DID NOT PASS THE JUST CAUSE TEST, MUCH LESS THE REQUIREMENT TO EXHAUST ALL AVENUES BEFORE RESORTING TO DISCIPLINE. IF MANAGEMENT CONCLUDED THAT GRIEVANT FAILED TO MAINTAIN REGULAR ATTENDANCE, THEY HAD EVERY OPPORTUNITY TO CORRECT THE DEFICIENCIES IN SEPTEMBER WHERE THE MAJORITY OF THE ABSENCES OCCURRED. THE GRIEVANT GAVE REASONABLE ANSWERS DURING THE INVESTIGATIVE INTERVIEW.
10. MANAGEMENT IGNORED THE GRIEVANT'S RESPONSES AND ISSUED HER A 7-DAY SUSPENSION. MANAGEMENT WAS AWARE THAT THE LETTER OF WARNING IS STILL LIVE IN THE GRIEVANCE/ ARBITRATION PROCEDURES. THIS LEADS TO THE CONCLUSION THAT THE DECISION TO DISCIPLINE WAS MADE BEFORE THE GRIEVANT WAS QUESTIONED. THE INVESTIGATIVE INTERVIEW WAS MERELY A FORMALITY AND THEREFORE A SHAM. THE RECORD IN THIS CASE FULLY SUPPORTS THE CONCLUSION THAT THE SDO DIDN'T MAKE ANY EFFORT WHATSOEVER TO CORRECT THE SITUATION BEFORE RESORTING TO DISCIPLINE. THE UNION WILL ARGUE WITHOUT DUIE PROCESS JUST CAUSE SIMPLY CAN'T EXIST. GRIEVANT WAS NOT AFFORDED THE OPPORTUNITY TO PARTICIPATE IN EAP AND SEEK ADDITIONAL RESOURCES PRIOR TO BEING SUBJECT TO DISCIPLINE.


CLERK CRAFT DIRECTOR

Signature and Title of Authorized Union Rep.