



# LOCAL 1998

National Federation of Federal Employees  
International Association of Machinists & Aerospace Workers, AFL-CIO



UNION REP A  
Union Vice President – Chicago  
IAMAW NFFE FD1 FL1998  
Phone # (312) ZZZ-ZZZZ

## Step 1 Grievance

December 12, 2003

To: \_\_\_\_\_, Regional Director – Chicago Passport

RE: AWOL charged to five employees on November 28, 2003

**Note: This grievance was  
filed under the old CBA.  
Keep that in mind when  
using this as a sample.**

In accordance with Article 20, Section 7 of the Agreement Between Passport Services and the National Federation of Federal Employees – Local 1998 (hereafter referred to as “the Agreement”), I am filing this formal grievance on behalf of the bargaining unit members of the Chicago Passport Agency. This grievance concerns the decision to charge AWOL for five employees who arrived late to work on November 28, 2003, in violation of the Agreement and the law, and by means that are in violation of the Agreement and the law.

We are alleging that Management has committed three violations:

- 1) The employees have not been treated with respect, dignity, common courtesy and consideration
- 2) The employees have not been treated equitably
- 3) The provisions for leave, including unplanned annual leave, have not been followed

## Background

On November 13, 2003, Adjudication Manager \_\_\_\_\_ sent the following memo to all employees:

This memo is to inform you that all requests for holiday leave has been submitted and approved. Due to the volume of leave requests received for the Thanksgiving, Christmas and New Years holidays we are unable to approve any more leave requests.

In order to insure that there is adequate coverage in the office for this time period anyone calling in requesting sick leave on November 28, 2003, December 22, 2003, December 26, 2003 and January 02, 2004 will be required to submit medical certification. Annual leave will not be granted during this time period for anyone other than those individuals who have already been approved for leave.

Please remember to check the leave request board which is located in the employees' lunch room for leave availability.

On November 28, 2003, five employees arrived late and were charged AWOL. Those employees, and their reasons for being late, are:

- 1) Employee A (overslept and missed her train) – 45 minutes late
- 2) Employee B (had a problem with her knee and had to walk slower) – 15 minutes late
- 3) Employee C (missed the bus) – 30 minutes late
- 4) Employee D (overslept) – 2 hours late
- 5) Employee E (not feeling well) – 1 hour late

On December 1, 2003 an Informal Grievance was presented to Assistant Regional Director \_\_\_\_\_. After consulting with the Adjudication Manager, ARD \_\_\_\_\_ responded on December 3<sup>rd</sup> that they would excuse the employee who was 15 minutes late, but that the other AWOL charges would stand in their entirety.

#### Relevant Portions of the Agreement

##### Article 31, Section 1e

Requests for annual leave for emergency or unforeseen reasons will be considered on an individual basis. However, the approval of leave cannot be presumed by an employee. In an emergency which could not be anticipated in advance, the employee must contact his/her supervisor or the supervisor's designated representative, either person-ally or by phone, as early as possible, but normally within two hours after the start of his/her shift on the first day of absence and request the use of annual leave. In cases where the employee's record establishes a pattern of leave usage, failure to obtain the supervisor's permission may result in an employee's absence being charged to absence without leave (AWOL) and disciplinary or other administrative action taken as the circumstances may warrant.

##### Article 31, Section 10

Tardiness: Supervisors shall have the option to excuse infrequent absences and tardiness of less than an hour on the part of individual employees. Each case shall be considered on its merits and no employee shall receive disparate treatment in excusing such tardiness.

##### Article 31, Section 12

Unplanned Annual Leave Abuse: Where the Employer has determined that employees are abusing the practice of calling in to report, that for personal reasons they are unable to report to work, or report timely, or where a pattern of either of these exists, the Employer will inform the employee that future requests for unscheduled annual leave may be denied and AWOL charged.

#### Article 6, Section 5

All unit employees and Employer officials deserve and shall be entitled to be treated with mutual respect, dignity, common courtesy and consideration, and will be treated equitably.

#### Article 6, Section 23

Past Practices: Where established working conditions or past practices relating to conditions of employment exist that are not in conflict with this agreement or its amendments, the conditions or practices may be continued until either party pursues and accomplishes changes through procedures that conform to legal and regulatory requirements.

#### Union's Argument

The provisions in the Agreement are applicable to all bargaining unit employees, in every office, every day of the year. There is no provision in the Agreement for a different policy on annual leave, sick leave, tardiness, or procedures for obtaining leave on the day after Thanksgiving, Christmas, and New Year's. The same rules apply every day. Therefore, the November 13<sup>th</sup> memo was not appropriate since it is contrary to Article 31 of the Agreement.

Central to the notion of being treated with "respect", "dignity", and "common courtesy", is the principle of being treated as an individual. These are principles to live by in their own right, but they are also required by Article 6, Section 5 of the Agreement. If another employee – or a group of employees – has a leave problem that justifies receiving the warning that they may be charged with AWOL in the future, then that problem is on his/her/their shoulders. The Agreement speaks to employees being charged AWOL for unplanned annual leave within the context of past instances where those employees were "abusing" that practice, or where a "pattern" of such instances exists. When Employee "A" has no such pattern and has not abused the practice of coming in late, but Employee "B" has, then charging Employee "A" for being AWOL because of Employee "B's" actions is grossly unfair. Employee "A" should not receive AWOL because of Employee "B's" abuse. Employees should be treated as individuals, and those that warrant the notification of future AWOL charges called for in Article 31, Section 12, may receive it but those individuals whose records do not warrant such a notification should not receive it.

The employees understood the November 13<sup>th</sup> warning to apply to employees' abusing the practice of calling in sick, and not coming to work at all. These employees did not engage in any abuse – they did not pretend to be sick, then call in and stay home. They came in to work. They arrived late for normal, everyday reasons.

Virtually every bargaining unit employee and every Supervisor and Manager in Passport Services has been late to work at some point or another. Things happen: the bus is late, there is an accident on the freeway, there is no hot water for the shower, the power went

out and the alarm didn't go off, I'm not feeling well and having a hard time getting in to work. There are things beyond our control that can hamper our transit to work, and there are things in our lives that prevent us from doing what we intend to do. None of these employees intended to arrive late – and all of them did arrive at work.

A contributing factor in this situation was that much of the mass transit was operating on the holiday schedule for November 28<sup>th</sup>, which some of the employees did not realize. This schedule affords fewer options for transiting to work.

#### Requested Relief

Under Article 31, Section 10, all of these instances of tardiness could in fact have been excused (except for the one employee's amount in excess of 1 hour), and considering that we are entering the holiday season, that the employees had valid reasons for being tardy, and the fact of their attendance at work demonstrates that they intended to comply with Management's November 13<sup>th</sup> memo, excusing their tardiness would be a welcome decision. That November 13<sup>th</sup> memo refers to December 26<sup>th</sup> date as well, but subsequently the applicability of the memo to that date has been rendered moot by President Bush's Executive Order to let us have the day off. In line with the impetus for that order, and in the spirit of the season and for the benefit of employee morale and good will, we ask that the employees' tardiness be excused. Alternatively, the employees have requested to use annual leave.

Thank you for your consideration,

UNION REP A