

Administrative Leave Due To Acts Of God A-24

The following article is an explanation of the various provisions found in manuals, handbooks and the National Agreement as they relate to the responsibility of rural carriers and the Postal Service under the circumstances discussed.

References Article 30, Section H Acts of God

"When Acts of God prevent an employee from performing his/her duty, the employer may authorize Administrative Leave. Equipment Maintenance Allowance will be paid for each service day that a rural carrier reports to the office and is scheduled to perform delivery. If the carrier fails to serve all or any portion of the route due to lack of proper endeavor or any failure for which the carrier is responsible, appropriate deductions from salary and Equipment Maintenance Allowance will be made based upon miles omitted."

P.O. 603 Section 142.11

In part "when Acts of God prevent you from performing your duties, the Postmaster may authorize Administrative Leave. You will receive EMA for each service day that you report to the Post Office and are scheduled to perform delivery."

Section 141.12 Exceptions

"If the route is one in which the USPS owned or leased vehicle is regularly assigned or used on a test or emergency basis, you will not receive EMA for the days that the USPS vehicle is used."

Section 142.122

"If you fail to serve any part of the route due to lack of proper endeavor, proper equipment, or other failure for which you are responsible, deductions are made from your salary or EMA. For partial failure, deductions are made at the rate of pay per mile for services on routes of 30 miles or less. For failure to perform services on that part of your route over 30 miles deductions are made at the rate of pay for such additional mileage."

Section 142.123

"Deductions are made from your salary or EMA for each scheduled day on which no service is rendered. Exception: No deduction is made if after you have reported to the Post Office it is found to be impossible to serve all or any part of your route because of weather and road conditions. On tri-weekly routes deductions are made of two days pay for each scheduled day on which no service is performed."

Section 152.1 Work Schedule

You must report to the Post Office as scheduled without regard to weather conditions, and must make every effort to perform full service.

Employee and Labor Relations Manual Section 519 Administrative Leave

Quoting in part from the ELM Manual 519.211 General:

"Acts of God involve community disasters such as fire, flood, or storms. A disaster situation must be general rather than personal in scope and impact. It must prevent groups of employees from working or reporting to work."

Summarizing from other pertinent parts of the ELM Manual:

Postmasters and other installation heads have the authority to approve Administrative Leave for up to one day, MSC Managers up to 3 days and Division Managers for periods in excess of 3 days. Postmasters and other Postal Officials are responsible for determining whether absences from duty allegedly due to "Acts of God" were in fact due to such cause or whether the employee or employees in question could, with reasonable diligence report for duty.

Section 519.216

Employees on Annual Leave

Employees on Annual Leave, Sick Leave, or LWOP remain in such status. They are not entitled to Administrative Leave.

When unresolved grievances are processed under the definition of Acts of God, arbitrators must evaluate evidence as it relates to several definitions defining provisions of the ELM Manual. The following are some questions that an arbitrator must ask in determining if the evidence supports sustaining the grievance or that management has acted correctly in denying Administrative Leave for the current dispute.

What is the meaning of the ELM Provision as it pertains to community disasters?

What is the length of the storm, the wind strength and temperature, did these conditions create "disaster conditions"?

Usually in the situation of a hurricane, tornado, or snow storm, etc. . . . it does not create the same conditions in all areas. There are false ins and false outs in most natural disasters. Whatever the cause, it usually must create a community disaster. Further, it must be general in nature and not of personal nature in scope and impact. Additionally, it must prevent groups of employees from working or reporting to work. Was the entire area shut down except for Police and Hospitals? Have the Police warned everyone to stay off the roads and at home?

Newspaper articles, affidavits or statements from medical and law enforcement officials, etc. . . . about the severity of the storm will assist the case file.

If people were stranded in their vehicles or slept in their cars due to impassable roads, to what extent was this common knowledge in the area?

Such language as "poor weather," "difficult conditions," or "bad conditions" are at most times insufficient in constituting a disaster.

When the focus shifts to the scope of the storm being general in nature questions similar to the following are asked.

How many employees in this facility were unable to report to work due to the disaster and what was the pattern of other industries nearby?

A better case can be built for Administrative Leave when employees from a large general area and numerous work sites

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are unable to report to work rather than a large number of employees from one specific work location. If information can be gathered and indicated on a map, the locations of large numbers being unable to report in various work sites will assist a case of this type. If a carrier lives a substantial distance from the main road and is unable to report to work, but other employees from a general area are able to report to work, arbitrators tend to view this as personal in nature rather than general in nature. The employer is not responsible for where you live as to the relevancy of reaching a main highway in order to report to work. Arbitrators tend to not require the Post Office to be closed in order to deny Acts of God Leave.

How do arbitrators look at groups of employees?

Arbitrators tend to differ on what constitutes a group. The ELM does not set forth any number for which Administrative Leave will be granted. If a group of Postal employees live in the same general area and most of them were unable to report to work, the arbitrator would most likely be more sensitive when compared to having a few employees living in a different area that may be equally impacted in their ability to arrive for work.

How can an arbitrator determine reasonable diligence when there are so many variables involved?

First, management must weigh the amount of reasonable diligence that an employee or employees exercise in any given location. Testimony and affidavits on behalf of an individual's reasonable diligence must be submitted in the grievance file in order to have a case for sustaining Administrative Leave. Employees must furnish proof of such an effort, on their own behalf, in order to assist their case. If two employees lived in the same general area and one had a four wheel drive vehicle and the other did not, it would be incumbent upon the individual without the four wheel vehicle to show that he had no other alternative means for arriving at work.

In summary, most arbitrators are reluctant to second guess management's discretion in granting Administrative Leave for severe storms or natural disasters. The language states "the Employer may authorize," it does not state "shall authorize" Administrative Leave. If carriers feel that they are unfairly denied Administrative Leave under these conditions, the Union must usually be able to show that all of the criteria listed in Section 519.211 existed and that the carrier did indeed exercise reasonable diligence in trying to report to work and that management was arbitrary and capricious in denying Administrative Leave.

Hampsen Sugden, 80, of Laureldale, New Jersey, died recently at his home.

Mr. Sugden was a rural letter carrier for 39 years.

He was president of the N.J. Rural Letter Carriers Association 1974-75 and received both the Outstanding Carrier Award and the 30-Years Safe Driving Award.

Mr. Sugden was a U.S. Army veteran of World War II, serving as a First Lieutenant. He received European, African and

Middle Eastern decorations, and two battle stars.

He was a member of the First Presbyterian Church of Mays Landing, the Unity Masonic Lodge 96 of Mays Landing, and VFW Post 220 of Mays Landing.

Surviving are his wife, Eliane (nee Bourgeois); two daughters, two brothers, and two grandchildren.

Contributions may be made to the Juvenile Diabetes Foundation, care of 101 S. Shore

Rd., Northfield, NJ 08225.

Benjamin F. "Perk" Perkins Jr., 64, of Chesapeake, Ohio, died this year in St. Mary's Hospital, Huntington, W. Va. He was a retired rural carrier for the U.S. Postal in Chesapeake, with many years of service.

He was preceded in death by his first wife, Hilda Perkins; and a brother, Robert Perkins. Surviving are his wife, Edna Belle; a sister, a brother, and a stepbrother

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Time and Attendance Recording Rules

The following rules apply in the given situation for rural carriers when they are dismissed from duty before the completion of their scheduled tour or are prevented from reporting to work due to an Act of God. A rural carrier is scheduled to work, and due to an Act of God, adverse weather conditions, roads closed, blizzards, etc. . . . is unable to report to work, the following rules apply.

1. Carrier must call in and advise the Postmaster.
2. Compensation. Regular carrier Designation 71, Substitutes in a leave earning capacity Designation 72, and RCAs in leave earning capacity Designation 74, receive a full days compensation and no EMA. Substitute Designation 73, RCR Designation 75, Auxiliary carrier Designation 77, and RCA Designation 78/79* are not entitled to any compensation. If a rural carrier is scheduled to work and is contacted by the Postmaster not to report to work due to an Act of God, the above payment procedures are also in effect.

If a rural carrier is scheduled to work and reports to the office and no mail is available and none is expected due to an Act of God, but the carrier is sent home: Compensation: Regular carrier Designation 71, Substitutes in a leave earning capacity Designation 72, and RCAs in a leave earning capacity Designation 74, are paid a full days compensation and full EMA. Substitutes Designation 73, RCR Designation 75, Auxiliary designation 77, and RCA designation 78/79* are entitled to two hours of guaranteed time. No EMA is due.

If the rural carrier is scheduled for duty and reports to the office but is unable to complete full service due to an Act of God and no fault of their own: Compensation: Regular carrier Designation 71, Substitutes in a leave earning capacity Designation 72, and RCAs in a leave earning capacity Designation 74 receive a full days compensation and EMA. Substitutes Designation 73, RCR Designation 75, Auxiliary Designation 77, and RCA Designation 78/79*, when performing service on a regular rural route receive a full days compensation plus EMA. Substitute Designation 73, RCR Designation 75, Auxiliary Designation 77 and RCA Designation 78/79*, when performing services on an Auxiliary rural route receive compensation for actual hours worked and EMA is only compensated for the route, hours, trips and miles traveled (minimum two hours).

*Designation 79 will be included in the F-21 Revision which is currently underway.