

Postal Service Supervisor AND Manager Guilty of Abuse An Arbitration That Took A Stand Against Workplace Bullying

As suggested in the BullyBusting Strategies section of our book, *The Bully At Work*, everyone should first hold employers accountable for faithfully enforcing their own lofty, noble internal feel-good, "respect for all" policies. Short of breaking a law, conscientious employers, who care about credibility with employees, expect to be held responsible for violating internal policies. However, the reality is that policies designed to restrain negative behavior are typically aimed at non-supervisory employees. "Violence prevention" means stopping employees from being violent, while ignoring daily psychological violence perpetrated by supervisors and their enabling managers who refuse to apply policies to themselves.

Obviously, the Postal Service thinks anti-violence policies do NOT apply to their managers. Of all governmental and quasi-governmental agencies, the Postal Service, more than any other should be intolerant of abusive misconduct by anyone since they spent \$4 million to produce the fall 2000 Califano report on the unsafe workplace at USPS focusing on the role of physical violence there. The erroneous conclusion of that myopic report was to raise the salaries of managers to attract a better class of managers, ostensibly to improve the 1/20 chance employees will experience physical violence rather than to tackle the unfettered exposure of employees to verbal abuse (as illustrated below) that affects 1 in 3 USPS employees!

Here is a real story about a federal arbitrator working in Wisconsin who stated the obvious about bullying in a Nov. 2000 ruling. Despite the Postal Service denials through all steps of a union grievance process, the courageous arbitrator punished the agency in a unique way that certainly provided the bullied letter carrier with a greater sense of justice achieved than most people who pursue legal remedies in court. (See Remedies below)

The ruling described below should give hope to all bullied individuals and unions who feel hopeless facing down bully managers armed with nothing more than agency policies. Bullying is part of the Anti-Violence Policy upon which this grievance was based and the term is used throughout the arbitration Decision and Award document, as part of the Arbitrator's own language.

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Date of grievable action (single incident): December 1998

Relevant Contract Provision: [1992 Joint Statement on Violence and Behavior in the Workplace](#) (an anti-violence policy)

The Grievant letter carrier was represented by his union, the National Association of Letter Carriers (NALC)

Arbitrator: **Bernice L. Fields**

Place of Hearing: Milwaukee, Wisconsin
Date of Hearing: October 12, 2000
Date of Award: November 1, 2000

The arbitration questions considered were:

1. Did the USPS supervisor bully, intimidate, threaten, or was abusive to the letter carrier as per the joint anti-violence statement signed by management and the union?
2. What is the remedy?

[Incident Description and Positions of the Parties](#)
[Supervisors Can Be Disciplined](#)
[Arbitrator's Understanding of Psychological Violence](#)
[Power Imbalance and Employer Liability](#)
[Extraordinary Remedies Ordered](#)

The following text was adapted by WBI from the original Decision and Award document written by Bernice L. Fields, Arbitrator. Significant statements have been excerpted directly (and contained in quotations) to demonstrate the arbitrator's reasoning in her own words. A privacy agreement exists between the Regional NALC and the USPS that prohibits the disclosure of names of the parties. WBTI has also deleted references the specific Post Office, the site of the incident.

Despite the positive outcome, please note that this grievance dragged on for **nearly two-years**. This is because postal management resisted the union's bid "to rid itself of managers it perceives as a stumbling block to conducting business as the Union sees fit..." As with all bullying, it's always a battle over control -- managerial prerogative vs an individual's right to dignity at work.

Case Background and Arguments by Union and Management

The Grievant (a male letter carrier) was delivering mail on a late Dec. afternoon in Wisconsin when it became so dark he could not see well enough to finish the route. After tripping and being unable to find mailboxes, he called the Post Office to request permission to stop delivering mail to say it was unsafe to continue. He only got a busy signal.

When he returned to his vehicle, a customer wanted mail he believed the Grievant had, but since the customer did not have identification and was unknown to him, the Grievant would not give the mail to the customer. The customer became irate and the Grievant got in his vehicle and left the scene. The customer tailgated Grievant's vehicle back to the Post Office.

The customer complained to the letter carrier's supervisor (a male). The supervisor approached the Grievant in anger waving his arms aggressively, and yelling. Witnesses testified that the supervisor called the Grievant "unprofessional" for returning mail and

not calling in. When Grievant tried to tell of his attempt to call, the supervisor yelled that he was a liar. The carrier was also accused of almost running down the customer. Grievant called the customer a liar. Still yelling, the supervisor called the Grievant a liar several more times, appearing "out of control" to several witnesses.

The supervisor testified that he was not in the least upset when he went to the workroom floor to investigate the customer's complaint that Grievant had almost hit the customer with the vehicle. He says that when Grievant called the customer a liar, he, the supervisor, said in a normal tone of voice, " if the customer is proved correct, then you will be the liar." He denied yelling or flailing his arms, or being out of control.

The supervisor admitted to other employees complaints about his behavior in the recent past. He had used profanity when directing employees, had lost his temper before on the workplace floor, had been required to apologize to employees for his behavior, and that he had received remedial supervisory training as a result on another employee complaint. Other witnesses, including the supervisor's manager, testified that there were a series of complaints about the supervisor's treatment of other letter carriers, including one case settled with a monetary award to the employee.

The union filed the grievance against the supervisor for violations of [the anti-violence policy](#) and under the collective bargaining agreement.

The employer denied the grievance at all levels on the grounds that the behavior of the supervisor did not rise to the level of a violation of the anti-violence policy. Postal management alleged that there was no intent on the supervisor's part to bully, harass, or intimidate Grievant. The supervisor's manager and the Postal Service argued that such exchanges occur daily on the workroom floor between supervisors and employees in the largest facility in the city.

They said the exchanges do not rise to level of violations of the anti-violence policy because there were no direct threats of violence. Further, the union steward in whose presence the incident occurred took no immediate action, did not call the police, the Postal Inspectors, or file an immediate grievance. Management argued that the grievance was an attempt by the union "to rid itself of managers it perceives as a stumbling block to conducting business..."

In addition, management said that arbitrators have no authority to discipline supervisors since such action is specifically excluded in their contract with the union.

The union sought removal of the supervisor. It believed that the supervisor's demonstrated pattern and practice of abusive behavior toward employees violated mutual respect and workplace dignity mandated by the anti-violence policy.

Supervisors CAN Be Disciplined

Arbitrator Bernice Fields found that Post Office Arbitrators have the authority to discipline supervisors. Arbitrator Fields , citing a national case with Arbitrator Snow, "arbitrators have available to them the flexibility found in arbitral jurisprudence when it comes to

formulating remedies, including removing a supervisor from his or her administrative duties."

The Snow decision said that if management can use the anti-violence policy to discipline violent workers, then the contract principle of mutuality of remedies provides that workers have the same right. Prior to the Snow decision, only non-supervisory workers faced public discipline for violent behavior. If supervisory workers were disciplined, and union workers were skeptical that they were, discipline was private and workers never knew what, if any, measures management meted out to heavy-handed supervisors. That policy created resentment and suspicion among union workers.

Now, under the anti-violence policy, workers who feel that they have been inhumanely treated have the right to use the grievance procedure to bring bullying or abusive supervisors to a neutral forum for a resolution.

An Arbitrator Who Understands Psychological Violence

Arbitrator Fields showed a keen understanding of the nature of bullying and its relevance to workplace violence as written in her Decision and Award document dated Nov. 1, 2000. Arbitrator Fields attacks management's shoddy arguments with the following admonitions, teachings, and ultimately in the award.

Remember that the supervisor's manager had claimed his supervisor's misconduct was not a violation of policy because neither the police nor other emergency response units were called to deal with this "common, everyday occurrence" on the workroom floor.

Directly quoting Arbitrator Fields decision in an excerpted fashion with bold emphases by WBTI, she said:

"(The manager's) statement was very disturbing because it shows that **the Postal Service believes that unless the level of violence reaches the place where armed police officers are necessary to disengage the parties, the dispute is trivial and that no violence has occurred.**

The (city) Post Office has a complete misunderstanding of what constitutes violence in the workplace. An atmosphere where a supervisor shouting abusive, demeaning and humiliating comments to a worker is a common, everyday occurrence is exactly the atmosphere the (anti-violence policy) was issued to eliminate. It appears that in the (the city's) Post Office custom is stronger than law because despite the (anti-violence policy) and the Postmaster's 1997 renewed pledge to adhere scrupulously to the (anti-violence policy's) provisions, neither (the supervisor nor his Manager made even colorable compliance with the (anti-violence policy's) mandate to have zero tolerance for harassment, intimidation, and or bullying behavior.

Violence in the workplace begins long before fists fly, or lethal weapons extinguish lives. **Where resentment and aggression routinely displace cooperation and communication, violence has occurred.** Such violence surfaces as threats, intimidation, harassment, and sub-lethal assault...

The (anti-violence policy) is intended to reach and to correct **emotional violence** as well as actual physical attacks..."

Power Imbalance and Employer Liability

"Because the relationship between supervisor and employee is inherently unequal, an employee confronted by a supervisor with behavior that a reasonable person would find offensive such as yelling, name-calling, profane, sarcastic, belittling, or other inappropriate language is a victim of workplace intimidation and bullying **because the employee cannot react as though the assault came from an equal. Such behaviors constitute threats to an employee even if no direct threatening language is used.**

The **threat is implied in the nature of the relationship**, a supervisor can do things to the employee from writing a negative evaluation to termination, therefore **the supervisor will be held to a higher standard of review in supervisor-employee confrontations.** The offense is aggravated if it occurs in front of co-workers or third persons such as Postal customers. Angry shouting, abusive, profane or other inappropriate language demeans and humiliates an employee, and has no place on the workroom floor....

When such behavior is the **supervisor's everyday management style** on the workroom floor, there is a **presumption that a hostile work environment exists**, and more stringent remedies may be taken to correct the situation.

The **Employer will be held to a standard of strict liability** for the acts of its supervisory personnel because the Employer chooses and trains supervisors to direct the work of other employees, knows or should know the state of affairs on the workroom floor, and has the power to counsel, discipline or remove supervisors who bully and intimidate employees before or immediately after such occurrences are reported...

However, there should be no witch-hunting in complaints about supervisors. The focus must be kept strictly on behavior, rather than suspicions, psychiatric diagnoses, or off-putting personal characteristics. The important question must remain, "Has there been intimidating, demeaning, or humiliating behavior toward the employee?"

The supervisor's unsubstantiated judgment that the Grievant lied about the (customer's complaint about him) does not justify the treatment the Grievant received. Nor does the Grievant's justifiable inability to deliver all the mail merit the kind of treatment he received. *"Making the numbers" is not an excuse for the abuse of anyone.* (Italics in original)

The supervisor created an unnecessary and unacceptable level of stress in the workplace, not only for Grievant, but also for the other employees who witnessed the incident.

Although the incident occurred in 1998, neither the supervisor, nor his manager, has made any attempt to ameliorate the damage done to the working relationship. There has been no apology from the supervisor, nor has the manager attempted to mediate the

differences between the two, nor made any attempt to reconstruct the relationship. The resentment and hostility between the supervisor and the Grievant was still palpable at the hearing. Such deep smoldering resentment festers and grows in such an atmosphere.

The **supervisor's behavior has poisoned the well of cooperation** between himself and employees he is supposed to motivate. It is highly unlikely that any employee in the unit would be willing to extend himself toward excellence for (the supervisor).

A "fair day's work for a fair day's pay" imposes obligations on both parties in the relationship. A "fair day" at work does not include the kind of behavior exhibited by the supervisor...

(The supervisor) is not solely responsible for this incident. **His direct supervisor, the manager of the unit, (name withheld), also bears part of the responsibility by condoning this and prior incidents of this behavior...** I find that he failed to promote and maintain an atmosphere of dignity and mutual respect in this unit. (The Manager's) failure to apply dispute resolution techniques to repair the damage done by the supervisor confirms in the minds of the Grievant and workers who witnessed the incident that (the supervisor's) behavior is the accepted and standard operating procedure for the Postal Service...

Authoritarian power centered management is passe, and can no longer be justified in the industrial setting. Supervisors and managers who fail to change with the times contribute to workplace unrest and do violence to the workplace. **There is no substitute for civility in supervision and a mutual regard for the dignity of persons in interpersonal relationships.** Compassion is fully consistent with firm decision making.

Bullies cannot exist unless the local Employer tacitly permits or encourages bullying behavior. If promotions and rewards are based on the positive contributions of individuals to operations efficiency, so also must accountability extend to the behavior of certain employees ...

Based on the evidence of this case, I hold that the superiors of a supervisor identified in a grievance may likewise be subject to the (anti-violence policy's) twin remedies absent any exculpatory evidence of their violation. Managers have the primary responsibility to lead this effort.

In 1997, in this same Post Office ... (there was) a similar case (heard) under the (anti-violence policy) involving an out of control abusive supervisor. (The Arbitrator) ordered the Postmaster to prepare and distribute a written statement assuring both the union, managers and supervisors that the (the city) Post Office would scrupulously adhere to the obligations set forth in the (anti-violence policy). Although that statement was distributed, it seems not to have had the desired effect since I can detect no discernible change in the attitude of the supervisor and manager in this case ..."

Remedies Signal Temporary Victory for Bullied Targets (at one Post Office, at least)

Arbitrator Fields decided that the behavior of the employer did violate the anti-violence policy through the actions of supervisor and the inaction of his manager. The supervisor had indeed bullied, intimidated, threatened, humiliated and demeaned the Grievant. And that the manager condoned by his silence the unacceptable behavior of the supervisor.

She ordered the following actions be taken:

1. The supervisor was suspended for 90 days as a supervisor, ordered to obtain a psychological fitness for duty report to determine whether his demonstrated tendency for explosive, angry, profane and abusive outbursts are compatible with the task of directing human beings in a work environment, and ordered to take anger management training.

2. The manager was ordered to do a "stand-up" apologizing to employees for condoning by his silence the unacceptable behavior of the supervisor.

And the more typical mandated training and education for managers and supervisors.

NALC Case No. GTS 2348, Nov. 1, 2000