



NATIONAL RURAL LETTER CARRIERS' ASSOCIATION

1630 Duke Street, 4th Floor

Alexandria, Virginia 22314-3465

Phone: (703) 684-5545

Executive Committee

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DONNIE PITTS, *Vice President*
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RONNIE W. STUTTS, *Chairman*
515 Walnut Lane
Dyersburg, TN 38024-6530
(731) 287-0816

August 16, 2005

JEANETTE P. DWYER
P.O. Box 477
Lake Waccamaw, NC 28450-2319
(910) 646-3052

FRANCIS J. RAIMER
P.O. Box 1365
Coventry, RI 02816-1365
(401) 397-9325

Mr. William D. Daigneault
Manager, Contract Administration (NRLCA)
Labor Relations, Room 9126
United States Postal Service
475 L'Enfant Plaza, S.W.
Washington, D. C. 20260

BILL GORDON
P.O. Box 790
Chandler, AZ 85244-0790
(480) 361-5409

Dear Mr. Daigneault:

Pursuant to Article 15, Section 4(D), of the parties' National Agreement, the Association submits this National Level grievance on the following:

Is the Postal Service in violation of the Family and Medical Leave Act ("FMLA") by maintaining a policy, in all but three states, that requires employees to submit detailed medical documentation certifying their fitness for duty before they are permitted to return to work from a FMLA-protected absence?

Contrary to law, the Postal Service is continuing to maintain a return-to-work policy as stated in ELM 865 and the July 26, 2005 memorandum, "Procedures for Returning Craft Employees to Work Following FMLA-Protected Absences," issued by Anthony J. Vegliante.

The FMLA mandates that return-to-work certification policies be "uniformly applied." In addition, under the law, employers may not require an employee to provide more than a basic statement of fitness for duty from the employee's health care provider as a prerequisite for returning to work. See, *i.e.*, *Harrell v. U.S. Postal Service*, 2005 U.S. App. LEXIS 14550 (7th Cir. 2005). The FMLA states, "The rights established for employees under this

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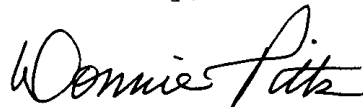
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Act ... shall not be diminished by any collective bargaining agreement or any employment benefit plan." Yet, the policy followed by the Postal Service in every state except Indiana, Illinois, and Wisconsin strips rural carrier bargaining unit employees of rights guaranteed under the FMLA and should, therefore, be rescinded or revised. Bargaining unit employees who have taken FMLA leave must be able to return to work once they submit documentation from their personal health care provider which states that the employee is cleared for work.

The Association's remedial request includes, but is not limited to, the Postal Service's immediate rescission and/or revision of its FMLA return-to-work certification policies so that they are in full compliance with the FMLA and *Harrell v. USPS*. The Association further requests that any and all rural carrier craft bargaining unit employees who have been adversely affected by the Postal Service's maintenance of unlawful return-to-work certification policies be made whole in any and all respects.

Please contact my office to determine the earliest date for us to discuss this very important issue.

Sincerely,



Donnie Pitts

President

DP:mlb