

REGULAR ARBITRATION PANEL

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In the Matter of the Arbitration)	Grievant: Marshay Martin
Between)	
UNITED STATES POSTAL SERVICE)	Post Office: Chicago/Ashburn
and)	Case No.4J-19N-4J-C-
National Association of Letter Carriers, AFL-CIO)	22103461
_____)	Union No. 20213094

BEFORE: ARBITRATOR John A. Obee

APPEARANCES:

For the U.S. Postal Service:	John Karambelas
For the Union:	Hope Miles
Place of Hearing:	ZOOM Video Conference
Date of Hearing:	August 2, 2022
Date Briefs Filed:	August 23, 2022
Date of Award:	September 10, 2022
Panel:	Illinois 1

AWARD SUMMARY

The Grievance is sustained. For all of the reasons as more fully set forth in this Opinion and Award, the Postal Service will pay the Union the monetary sum of \$2500 for the violation of the Settlement Agreement in this case and will pay the Union a mandatory, automatic payment of \$2500 for future non-compliance with Settlement Agreements, Cease and Desist Orders and Step B Decisions. The Arbitrator does not retain jurisdiction.



John A. Obee, Arbitrator

ISSUE

In the DRT decision, the DRT stated the issue as follows: Did management violate Articles 15, 17, 19 (via M-01517 & M-01492) and 31 by failing to comply with grievance settlement #2021-0966 and fail to meet at both informal and formal steps of the grievance process? If so, what is the proper remedy? On the other hand, the Union in its Opening Statement set forth the issue somewhat differently as follows: What is the proper remedy for repeat violations of Article 15 and Article 19 via the M-01517 and the Joint Statement of Expectations (M-01492), failing to bargain in good faith, failing to comply with grievance settlements and Step B decisions and failing to meet at the Informal and Formal Step A.

THE DRT DECISION

On March 29, 2022, the Dispute Resolution Team (DRT) resolved the dispute **in part**, determining that the Postal Service had violated Articles 15, 17 and 31 when it failed to timely comply with the Step B settlement in case #2021-0966, awarding the Grievant a lump sum of \$2000 for continued non-compliance. The DRT also found that the Service had violated Article 15 by failing to meet at informal and Formal A steps of the Grievance process, ordering the Service to cease and desist violating Articles 15, 17 and 31 of the National Agreement. However, the DRT declared an **IMPASSE** concerning the payment of \$2500 to the Union as a remedy for this case.

In the DRT decision, the Union cited in support of its requested remedy, its contentions as made during the prior steps of the Grievance process, as well as the 12/18/2020 Award of Arbitrator Jo Ann Nixon in which she ordered payment of the sum of \$1000 for violations of the Collective Bargaining Agreement. In addition, the Union

cited to M-01517, which required the Service to timely comply with arbitration awards and grievance settlements. On the other hand, Management relied on the Award of Arbitrator Rafael Gely in USPS # 4J-19N-4J-C-21342645 (Gely, 3-7-22), in which Arbitrator Gely denied a requested payment to the Union of \$2500, holding that in order for such remedy to be justified there must be a “direct and calculable” loss and without such evidence of such loss, the requested remedy is inappropriate.

TESTIMONY OF WITNESSES AT THE ARBITRATION HEARING

UNION WITNESSES: The Union called two witnesses to testify at the Arbitration Hearing.¹ Their testimony can be summarized as follows:

MICHAEL CAREF: Mr. Caref is the National Business Agent for Region 3 – Illinois. In that role he is responsible for contract interpretation and contract enforcement. He was directly involved in the Pre-Arb Settlement in this matter, which was entered into on September 28, 2021. However, because the settlement was not complied with, a new Grievance had to be filed. As the present case was not an isolated incident where the Chicago installation failed to comply with a Grievance settlement or a Step B decision, he along with others complied DRT decisions, in 68 of which the DRT ordered the Chicago Installation to provide a monetary remedy for Grievants for the failure to comply with DRT decisions and another 27 Awards, in which individual Grievants received a monetary remedy for the Service’s non-compliance, but the Union was also given a

¹ At the Arbitration Hearing, the Postal Service objected to the testimony of the two witnesses called by the Union to testify at the Hearing, arguing that neither of the two witnesses were identified in the case file as being involved in the Grievance Process. Over the objection of the Service, both witnesses were allowed to testify, as both testified that they were directly involved in the compilation of the documents that were part of the file that was provided by the Union during the Grievance Process and at Step B. In addition, the Arbitrator notes that in the decision that the Postal Service relied upon in imposing this matter, i.e., the Gely decision, Arbitrator Gely rejected a similar argument that was made by the Postal Service in his case, finding that the Union witnesses would be allowed to testify, as their testimony was directly related to the arguments made by the Union during the Grievance Process. USPS #4J-19N-4J-C-213426465 at p. 14.

monetary Award for the Service's non-compliance. In each of the 95 total Awards, the Service was directed to cease and desist from its failure to comply with the Collective Bargaining Agreement. In addition, as part of the Grievance file, the Union cited to a series of Arbitration Awards in which the Service was directed to pay the Union monetary relief for the Service's failure to comply with the provisions of the CBA and prior Awards. See, e.g., USPS # J11N-4J-C-17360783 (Widgeon, 9-29-17) (\$1,000); USPS # J16N-4J-C-18376489 (Nixon, 4-17-19) (\$2,500), etc. According to Mr. Caref, in order for compliance with DRT decisions and Arbitration Awards to be effective, the Postal Service has to take responsibility to see that compliance takes place, but that is not what is occurring at the Chicago installation, as the Union has to "chase" the Service and file additional Grievances to obtain compliance. Mr. Caref identified a letter that was part of the Grievance file which was authored by him and written to the Union President, in which he outlined all of the attempts that the Union has made to find a way to get the Service to comply with Arbitration Awards without success. In his letter, he did note that at one time the Postal Service and the Union did agree to have compliance coordinators appointed by each side to ensure compliance, but the Postal Service appointed as its compliance coordinator, Francisco Marte, who according to the letter, was "notorious for not complying with grievance settlements himself."

RONALD MORGAN: Mr. Morgan is the Union Branch 11 OWCP Safety and Health Coordinator and is also an Arbitration Advocate. Along with Mr. Caref, he helped put together the packet of documents that were part of the Grievance file, as he used an Excel Tracking system to pull up all of the Step B decisions in which there was a failure on the part of the Service to comply with DRT decisions. He testified that he is also

involved in Grievance-related issues and explained that the Union has to expend a great deal of time and resources when Grievance settlements are not complied with. In the present case, the Union had to gather information and file a second Grievance to get the Service to do what it should have done in the first place, i.e., comply. He asserted that the issuance of another Cease and Desist Order is not an appropriate remedy in this case, as dozens of Cease and Desist Orders have been issued and despite these Orders, the Postal Service in an ongoing and continual basis fails to comply with the Cease and Desist Orders. On cross-examination, Mr. Morgan acknowledged that there was nothing in the Grievance file that Union members are dissatisfied with the Union because of non-compliance issues or that the Union has lost any members because of the non-compliance issues. There was no documentation in the Grievance file of the expenditures made by the Union in seeking compliance with the present Grievance settlement or any other Grievance settlement.

POSTAL SERVICE WITNESS: The Postal Service called one witness to testify at the Arbitration Hearing, Francisco Marte.² Mr. Marte is a Labor Relations Specialist and testified that in that role and in his previous role as Formal Step A representative, it has always been his policy to try to settle Grievances early in the process. He contested the allegations as set forth in the Letter written by Mr. Caref and made part of the record, asserting that he is not notorious for not complying with Grievance settlements. He testified that when the Service and the Union set up a compliance overview system, he

² As the Service had done as to the two witnesses who testified in the Union's case in chief, the Union objected to any testimony from Mr. Marte. The Union's position is stronger than that of the Service, because unlike Mr. Caref and Mr. Morgan who prepared documentation as part of the Grievance Process, there is no evidence that Mr. Marte played any role in the Grievance Process, as the Service failed to meet at Informal A or Formal A. He was permitted to testify but his testimony has little relevance to the Service's case in chief and on cross-examination, he admitted to the Service's non-compliance with Grievance settlements and non-compliance with Cease and Desist Orders.

and the Union representative, Stephen Stewart, worked cooperatively together to resolve 90% of the matters. However, after working successfully for a short period of time with the Union, the Union pulled out of the process, asserting that the process was not working for the Union. On cross-examination, Mr. Marte acknowledged Arbitration Awards, including Arbitration Hearings in which he participated, where monetary Awards were ordered paid to the Union for the Service's non-compliance with Grievance settlements, as well as numerous DRT decisions in which the Service was ordered to Cease and Desist from non-compliance and the Union was awarded a monetary remedy for the non-compliance.

POSITIONS OF THE PARTIES

UNION'S POSITION: The Union asserts that the present case is a classic example of a "serial" violation of Cease and Desist Orders issued as part of Grievance Settlements, Step B Decisions and Awards of Arbitrators. Despite specific directives from Postal Service executives that Grievance Settlements and Arbitration Awards must be complied with by local authorities, in the Chicago Installation compliance with Settlements and Awards has been the exception rather than the rule. This is clearly reflected in the documentation that was made part of the record file in this case, where the Union demonstrated unequivocally that the Service has repeatedly and willfully failed to comply with Settlements, Step B Decisions and Arbitration Awards. This blatant failure to comply has led a number of Arbitrators to issue monetary Awards to the Union as well as the individual Grievants, as an enhancement and an encouragement to the Service to comply with Cease and Desist Orders and Awards.

But all of these efforts have not led to compliance, as demonstrated by the instant case, calling for this Arbitrator to issue an Award that would set a specific enhanced penalty for non-compliance with Grievance Settlements, Step B Decisions and Arbitration Awards, in the hopes that a message will be delivered to the Service that it must comply or the failure to comply will lead to an automatic, minimum, enhanced penalty, i.e., \$2500, to the Union for having to file a Grievance seeking compliance. In support of its position, the Union cites the following arbitral authority, as well as the decision of a Federal Judge, as follows:

USPS v. NALC, CA No. 19-3685 (7-26-21)
4J-16N-4J-C-21113794 (Carne, 4-18-22)
4J-19N-4J-C-20502441 (O'Connor, 1-31-22)
J16N-4J-C-20062325 (Nixon, 9-12-20)
J16N-4J-C-20192603 (Jordan, 9-2-20)
C16N-4C-C-18189269 (Roberts, 11-7-19)
C16N-4C-C-18352211 (August, 10-18-19)
C16N-4C-C-18267277 (Roberts, 3-6-19)
J11N-4J-C-17397690 (Simon, 11-3-17)
J11N-4J-C-17360783 (Widgeon, 9-29-17)

POSTAL SERVICE'S POSITION: The Service asserts that it resolved the underlying Grievance in this case by a monetary payment to the Grievant and that the Union is acting in bad faith by pursuing the matter, as it is only looking to enrich itself, rather than seeking to settle matters at the lowest Step possible in the Grievance Process. Citing National Arbitration Awards as well as Regular Panel Awards for the Chicago District, the Service asserts that any Award to the Union would be punitive and punitive Awards are inappropriate in breach of contract situations. Further, the Union has failed to show that it suffered any loss as a result of the initial non-compliance and a proven loss must be demonstrated in order for the Union to prevail. To issue a blanket Award going

forward in all cases of non-compliance would be inconsistent with the proposition that all cases are unique and must be treated as such for purposes of a Remedy. In support of its position, the Service cites the following National and Regular Panel Arbitration Awards, as follows:

H7C-NA-C-36 (Mittenthal, 1-29-94)
H1C-NA-C-97 (Mittenthal, 2-3-89)
4J-19N-4J-C-21158520 (Gely, 8-10-22)
4J-19N-4J-C-21342645 (Gely, 3-7-22)
J16N-4J-C-19023093 (Gilder, 6-6-19)
W1C-5F-C-4734 (Snow, 9-11-87)

ANALYSIS AND CONCLUSIONS

As the burden is on the Union in this case, the Union has set forth a compelling case that the Chicago Installation has willfully and repeatedly failed to comply with Cease and Desist Orders, Grievance Settlements, Step B Decisions and Arbitration Awards, despite a clear, 2002 directive from Management at the National Level which set forth the following:

Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator's award or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented.

Despite this clear and unequivocal directive which applies to the Chicago Installation and all Postal Service Installations, in the record file in this case, the Union compiled a series of DRT Step B decisions, 68 in total, in which the Chicago Installation consistently had to compensate individual Grievants for non-compliance with Grievance

Settlements and non-compliance with Cease and Desist Orders. In addition, in that same record file, the Union identified 27 Step B decisions in which the Union itself, as well as the individual Grievant, was awarded monetary compensation for the Service's repeated failure to comply with Grievance Settlements and Cease and Desist Orders. Further, the Union attached to its Post-Hearing Brief a 100 page document, entitled NALC Non Compliance White Paper, in which it elaborated on what was set forth in the record file, identifying 75 Step B Decisions in which the Chicago Installation failed to comply leading to a compensatory Awards to individual Grievants and 40 Step B Decisions or Grievance Settlements in which the Union was awarded monetary compensation for the Service's failure to comply with Grievance Settlements. Further, in that same White Paper, the Union provided Arbitration Award Abstracts, many of which involved the Chicago Installation, in which Arbitrators Awarded compensation to the Union in various amounts from \$1000 to \$10000, in some cases with escalators, for what was termed in one Arbitration Award as "serial non-compliance," see, e.g., USPS # C16N-4C-C-18189269 (Roberts, 11-7-19) or as was described in another case as the "Chicago problem," see, USPS # J16N-4J-C-21149463 (Carne, 12-3-21). This is clearly a case that is crying out or screaming out for a Remedy, but the question is what Remedy? Before addressing the question of what Remedy, we must first look at how the Postal Service responds to this compelling, prima facie case.

How does the Postal Service respond? One thing it does not do. It does not respond to the evidence in the record file of 68 Step B Decisions where Grievants were awarded additional compensation for the failure to comply with Grievance Settlements and Cease and Desist Orders. It does not respond to the evidence in the record file of 27

Step B Decisions in which the Union was Awarded compensation for the Service's failure to comply with Grievance Settlements and Cease and Desist Orders. What the Postal Service initially argues, as set forth in its Opening Statement, is that it resolved this matter at Step B for the individual Letter Carrier, Marshay Martin, but that the Union in "bad faith" continued to move the Grievance to Arbitration because the Union sought payment from the Postal Service, an escalated remedy, in the amount of \$2500. But this is not bad faith on the part of the Union, but rather the fact that the Union had to grieve the Service's failure to comply with 68 Settlement Agreements and Step B Decisions and had to grieve the Service's failure to comply with 27 Settlement Agreements and Step B Decisions, which led to an Award of monetary compensation to the Union, can only be viewed as the Service describes it as the "ultimate" in bad faith. It is the Service by its non-compliance which is forcing the Union to file additional Grievances and there must be a Remedy for more than what is just a "perception" of non-compliance, but "actual," flagrant, non-compliance.

The Service next argues that there are National Arbitration Awards and more recent Regular Arbitration Awards which stand for the proposition that what the Service characterizes as "punitive" Awards are disfavored in breach of contract cases, as the concept of remedy is to restore employees to the status quo ante and a punitive remedy goes beyond the notion of status quo ante. USPS H1C-NA-C-97 (Mittenthal, 2-3-89). In addition, as cited by the Service as the basis for not resolving the present matter at Step B, the Service cites to the recent Award of Arbitrator Gely in which he denied a requested Remedy by the Union in a Chicago Installation case where the Union was seeking a \$2500 payment to the Union for processing the Grievance. Arbitrator Gely

denied the Union's remedy request finding that it seemed punitive in nature and that the Union had failed to demonstrate a "direct and calculable loss" caused by the breach of the provisions of the Collective Bargaining Agreement. USPS # 4J-19N-4J-C-21342645 (Gely, 3-7-22),

The Service's argument regarding a punitive Award and its reliance on the Gely Award fails to take into account that there has been a "sea change" in how punitive Awards are recognized in Labor Arbitration cases. This sea change is best reflected in the decision of a D.C. District Court Judge in **United States Postal Service v. National Association of Letter Carriers, AFL-CIO**, CA NO. 19-3685 (D.C. 7-26-21). In that case District Court Judge Tanya Chutkan was asked to address a claim brought by the Postal Service that an Award issued by Arbitrator Lawrence Roberts arising out of a Postal Service facility in Kingsport, Tennessee should be set aside in part because in issuing his Award, Arbitrator Roberts assessed what the Judge described as a punitive remedy for the Service's non-compliance with DRT decisions and Cease and Desist Orders. In rejecting the Postal Service's argument in her case, Judge Chutkan, following the lead of the United States Supreme Court and the D.C. Circuit, held that absent specific language in a Collective Bargaining Agreement providing for a specific remedy, an Arbitrator can look beyond the explicit text in fashioning an appropriate remedy. Opinion at p, 12. In upholding the Award of Arbitrator Roberts, Judge Chutkan opined as follows:

Citing arbitral precedent, Arbitrator Roberts noted that "it is generally accepted in labor arbitration that a damage award arising from a violation of the collective bargaining agreement should be limited to the amount necessary to make the injured party whole."

However, Arbitrator Roberts reasoned that this does not mean that punitive awards are always prohibited. He then expressed the

opinion that punitive damages were appropriate here given a straightforward "cease and desist order cannot be simply ignored, as it was in this case." Thus, he concluded that the USPS's failure to abide by the Step B settlements reached the level of "willful and malicious and clearly represents bad faith bargaining."

Even if the Court disagreed with this conclusion, it would be in no position to disturb the Roberts Award. The arbitrator's analysis is consistent with arbitral precedent and past practice between the parties in which punitive damages were ordered for willful, malicious conduct.

Opinion at p. 13. Applying Judge Chutkan's holding to the present case, what could be more willful, malicious, bad faith conduct than failing to comply with 95 (68 + 27) Step B Decisions and Cease and Desist Orders?

Arbitrators addressing cases within the Chicago Installation have reached similar conclusions as did Judge Chutkan and have issued Awards with a specific Remedy provided to the Union for what is sometimes couched in terms of a "punitive remedy" or an "enhanced remedy," or a "coercive remedy" with the ultimate goal, obviously not reached by the facts of the present case, to obtain the Service's compliance with Cease and Desist Orders and Settlement Agreements. One of the first such Awards was Arbitrator JoAnn Nixon's Award in USPS # J16N-4J-C-20062325 (Nixon, 12-12-20), in which Arbitrator Nixon found that the Postal Service had failed to respond to requests for information, failed to meet and failed to comply with "numerous grievance settlements," awarding the Union a lump sum of \$1000 and indicating that "future violations shall be subject to escalated awards, depending on the circumstances revealed in each case." In a more recent case, i.e., USPS # 4J-19N-4J-C-20502441 (O'Connor, 1-31-22), Arbitrator Doyle O'Connor awarded the Union an escalated amount of \$2000 for the Service's "deliberate" refusal to comply with requests for information, noting that the Chicago Installation has repeatedly violated Step B

decisions and Awards of Arbitrators. Rather than characterize his Award as “punitive,” Arbitrator O’Connor chose to call his award to the Union as a “coercive” Award. In a similar vein, Arbitrator Carne in USPS 4J-16N-4J-C-21113794 (Carne, 4-18-22) awarded the Union \$2500 to further “encourage” compliance with the contract and as a “motivational” concept for the Postal Service. Lastly, this Arbitrator in USPS 4J-19N-4J-C-21423504 (Obee, 3-9-22) awarded the Union \$1000 for the violation of a Cease and Desist Order, using the euphemistic words, “encouragement and incentive” rather than the word “punitive.” Whatever the operative language as used by this Arbitrator and others, the Union is entitled to an Award in situations such as the present where the violation is part of a pattern and practice on the part of the Postal Service being non-compliant with Settlements Agreements and Cease and Desist Orders, which distinguishes the present case from the National Award of Arbitrator Mittenthal and the Regular Panel Awards of Arbitrator Gely.

There is another factor that distinguishes the present case from the National Award of Arbitrator Mittenthal and the Awards of Arbitrator Gely. Arbitrator Mittenthal focused his determination on the notion that punitive awards are generally not made in cases involving breach of contract. But the present case is somewhat different. Even though there was an initial violation of the Collective Bargaining Agreement which led to the Settlement Agreement and the DRT Cease and Desist Order, the non-compliance puts this case in a different analytical context. As this Arbitrator has held, separate and apart from the violation of the contract, there must be a Remedy for the violation of Cease and Desist Orders or “such Cease and Desist Orders are meaningless words on paper.” USPS # 4J-16N-4J-C-21003366 (Obee, 3-22-22). This case is far more akin to the

analysis and reasoning of Arbitrator Lawrence Roberts in his Award in USPS # C16N-4C-C-18267277 (Roberts, 3-6-19).

Arbitrator Roberts case has striking similarities to the present situation. While his case arose out of the Toledo, Ohio Post Office, apparently in Toledo, there had been a history of the Installation habitually delaying monetary disbursement of Awards and Settlements, as well as defiance of cease and desist orders. The Toledo advocate argued, as the Chicago advocate has done in this case, that the Union was only seeking a monetary award, in a self-serving fashion. Toledo argued what cannot be argued in this case that while in the past it may have violated agreements and cease and desist orders, such was in the past. Assuming that was true in Toledo, it is clearly not true in Chicago in light of the unrebutted evidence offered by the Union in this case that the Chicago Installation has and continues on a regular basis its non-compliance with Settlement Agreements and Cease and Desist Orders. In awarding the Union the sum of \$7500 in compensation, Arbitrator Roberts found such Award equitable, focusing on the violation of a Cease and Desist Order, holding:

Cease and desist means what it says. There are no variations to a cease and desist order. It was issued in the first place to ensure future compliance. And when that does not happen, there are consequences. And the only way to prevent future violations is an escalating remedy.

The Agency insisted that escalating awards are punitive in nature and extend beyond the four corners of the Parties Agreement. However, when a cease and desist order is defied, a monetary award is the only method to enforce a matter of non-compliance.

Award at p. 15. For the 95 violations of Settlement Agreements, Cease and Desist Orders and Step B Decisions, the reasoning of Arbitrator Roberts is wholly applicable in

the present context, requiring that an Award be issued to the Union for the willful, repeated, and flagrant violation of such Agreements, Orders and Decisions.

The question then becomes what Remedy? While other Arbitrators have awarded substantially more to the Union, e.g., Arbitrator Roberts Award of \$7500 to the Union, the Union in the present case seeks an Award of \$2500. While seeking a lesser amount, the Union requests that this Arbitrator determine that for non-compliance going forward, i.e., a violation of a Settlement Agreement or a Cease and Desist Order that there should be an automatic, mandatory Award to the Union of \$2500 in each instance of non-compliance. The Service responds that in no case has an Arbitrator found that an automatic Award is appropriate and, citing an Award of this Arbitrator, asserts that the Union never asked for such "automatic" Award during the Grievance Process and should be barred from seeking such Award now. See USPS 4J-16N-4J-C-21003366 (Obee, 3-22-22). Addressing this latter argument first, what distinguishes this case from the prior Award issued by this Arbitrator, in the prior case, the Union never sought monetary relief until Arbitration, while in the present case, the Union has always sought monetary relief, the only difference being how that monetary relief should be allocated in the present and in future cases. The Service's argument is without merit.

The question at the heart of the issue in this case is then whether a Remedy can be issued for violations of Settlement Agreements and Cease and Desist Orders which will automatically apply in situations going forward when such violations occur. The Service asserts that there is no precedent for such automatic Award that will apply to cases going forward, asserting that each case must be treated on its individual facts, citing Arbitrator Nixon in USPS J16N-4J-C-20062325 (Nixon, 12-20-22), in which she

asserted that "future violations shall be subject to escalated Awards depending on the circumstances of each case." Arbitrator Nixon's case and the case of Arbitrator O'Connor cited above involved issues where the Union was awarded a Remedy for the Service's having failed to respond to Requests for Production of Documents. And, contrary to the Service's assertion in this case that there is no precedent for an automatic, escalated Award to apply in future cases involving failures to produce documents, there is in fact such precedent and that is found in one of the primary cases relied upon by the Service, i.e., the Award of Arbitrator Gely in USPS 4J-19N-4J-C-21158520 (Gely, 8-10-22).

Arbitrator Gely was tasked with determining whether the Service had failed to comply with the Award of a different Arbitrator, with one of the factors involved being a failure on the part of the Postal Service to produce documents. In the Gely Award, the Postal Service agreed to provide all documentation within 72 hours and if the documentation was not so produced, that "for future violations" involving a failure to produce requested information, there would be a monetary Remedy of "50.00 per day from 72 hours that the request for information was submitted, until information is received." Award at pp. 4, 11-12. While in the Gely Award the monetary payment was made to the Grievant and not to the Union and Arbitrator Gely denied a monetary Remedy for the Union, what is important in context is that in fact the Postal Service has established precedent for the payment of a sum certain in future cases for admitted, continuing contractual violations. This precedent is important because it recognizes that for certain contractual violations the violation is readily determinable, i.e., the documents were not produced by the Postal Service, requiring a Remedy and an escalator for future violations. By analogy,

the same can be said of the violation in the present case, i.e., the violation occurred when the Service failed to comply with the Settlement Agreement and because this non-compliance was part of a pattern and practice of such non-compliance, there should be an escalated Remedy as there was in Arbitrator Gely's case for violations going forward.

What the Union is seeking in the present case is eminently reasonable. Because the present case is just one case in a long line of cases where the Service has failed to comply with Settlement Agreements and Cease and Desist Orders, there should be a Remedy that applies universally when such violations occur. There is no dependence on the facts of each case, as argued by the Service, as the violation is not fact-dependent, as there is either a failure to comply with an Agreement or there was compliance. Compliance with Settlement Agreements and Cease and Desist Orders is wholly within the province of the Chicago Installation to do. There is no rational reason why Management in the Chicago Installation has chosen not to comply with Settlement Agreements and has chosen to ignore the directive from National Management that "compliance with arbitration awards and grievance settlements is not optional." There may be situations where a Settlement Agreement cannot be complied with timely, but as Arbitrator Roberts determined in a case similar to the present case, the lack of timely compliance should be a rare occurrence and not as it is in the present case, a regular occurrence. USPS # C11N-4C-C-17531409 (Roberts, 8-7-18) (Compliance with Arbitration Awards and Settlement Agreements is not optional and compliance should occur within two pay periods). The Postal Service is to pay the Union the sum of \$2500 for its non-compliance with the Settlement Agreement in the present case and, in order

to obtain the compliance of the Chicago Installation with Settlement Agreements, Cease and Desist Orders, and Step B decisions, this Arbitrator finds that an automatic Award of \$2500 is mandated for all future failures to comply with such Settlement Agreements, Cease and Desist Orders and Step B Decisions.