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EMPLOYMENT AND LABOR LAW



March 12, 2004

VALERIE MARTIN

SUBJECT: Supervisors' Use of Personal Vehicles While on Duty

You requested advice concerning whether the Postal Service can require supervisors to use their own vehicle while conducting street observations.

Short Answer:

The Postal Service should not force or require supervisors to use their own vehicle to perform their job responsibilities, such as street observations or route inspections.

Discussion:

There are various laws and regulations that govern the different situations that may occur during a period when Postal employees are driving their personally owned vehicle in furtherance of their job duties. Those are explained below.

Damage to other parties and their property:

If Postal employees are involved in an automobile accident while driving their own vehicle in an on-duty status, they are covered by a statute that protects them from personal liability for their actions. This means that the Postal Service will pay for any damages to other parties which are attributable to the employee's wrongful or negligent conduct, provided that the employee was acting within the scope of his or her employment. If found liable, the Postal Service will pay for damages to the other vehicle, personal property, and personal injuries suffered by the other parties.

Personal injuries of our employee:

If our employees are injured in the accident, they will be entitled to Office of Workers' Compensation Program benefits under the Federal Employees Compensation Act, regardless of fault, provided that they were acting within the scope of their employment.

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Damage to the Postal employee's personal vehicle:

The Postal Service will not pay for any damages to the Postal employee's vehicle<sup>1</sup> (even if the employee is not at fault), nor will it pay for any increase in premiums that an insurance company may charge an employee as a result of the employee's use of a personal vehicle in performance of his or her employment.

The rationale for this policy is that compensation provided to supervisors for the use of their own vehicle, whether through basic mileage payments or a standard drive out agreement, is intended to cover all associated expenses including gas, wear and tear on the vehicle, insurance for the vehicle, etc. If employees cause damage to their own vehicle, it is expected that their insurance, or the employees themselves if they have no collision coverage, will cover that damage. If a third party causes damage to the employee's vehicle, it is expected that the employee will pursue recovery, likely with the aid of their own insurance company, from the third party.

Supervisors' obligation to provide a personal vehicle:

While the Postal Service may require employees who are contractually obligated to use their personal vehicle (e.g., rural carriers) in order to perform their job duties, the Postal Service cannot require the same of supervisors since they do not have such contractual obligations. The reason for this distinction is that using their personal vehicle is not part of the supervisors' current job requirements and was never a term or condition of accepting a position as a supervisor. They are required to get to the job site by their own means, like a personal vehicle, but we have never issued anything that requires them to use the vehicle once they arrive. For example, if supervisors have to report to different sites everyday, we can require them to report to those sites. However, if they report to one site, we cannot then require them to use their vehicle to move from site to site during the day.

In the event management believes that it is important to be able to require supervisory employees to use their personal vehicle, a possible course of action would be to amend the job requirements for supervisors to require the use of a personal vehicle for route inspections, street observations, etc., on an "as-needed" basis. This requirement would become a term and condition of employment for an employee seeking the supervisory position. Employees interested in becoming a

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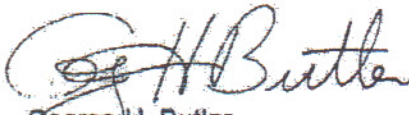
<sup>1</sup> An exception to this rule is where employees who are driving their personal vehicle within the scope of employment are struck by another Postal employee (also driving within the scope of employment). In such a situation, the Postal Service will treat the employee whose vehicle was struck as a private party and pay for damages to the employee's vehicle. Other exceptions to this general rule are found at Section 640 of the Employee and Labor Relations Manual.

supervisor would be on clear notice that if they accept a supervisory position, they could be required to use their personal vehicle for route inspections/street observations, as needed. Of course, this requirement would not apply retroactively to current supervisors because, as previously stated above, it is not part of their job requirements, and was not a term and condition of them accepting the supervisory position.

Damages while driving a Postal vehicle:

If the employee is driving a Postal vehicle at the time of the accident, the Postal Service will be responsible for the damages to the Postal vehicle, except to the extent that Section 3 of Article 28 of the National Agreements (Mail Handlers, APWU and NALC) or Section 4 of Article 28 of the Rural Carriers' National Agreement applies.

This memorandum supercedes any previous advice on this specific matter. Please contact me if you have any questions or need additional information.



George H. Butler

cc: Eric Scharf  
Charles Kappler  
Michael Spates