



National Association of Letter Carriers

William H. Young
President

April 19, 2005

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Sharla Groves, Recording Secretary
NALC Branch 111
2261 S. Redwood Road, #14
Salt Lake City, UT 84119-1330

RE: APPEAL NO. 6
Stephen McNees
Branch 111, Salt Lake City, UT

Jim Williams
Executive Vice President

Dear Sister Groves:

Gary H. Mullins
Vice President

Jane E. Broendel
Secretary-Treasurer

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Asst. Secretary-Treasurer

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Director, City Delivery

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Randall L. Keller

In accordance with Article 11, Section 4 of the Constitution of the National Association of Letter Carriers, and Article 11 of the Constitution for the Government of Subordinate and Federal Branches (CGSFB), the following are the findings of the Committee on Appeals in the above captioned matter.

Appellant, Stephen McNees, has appealed the decision of Branch 111 at its meeting on October 14, 2004 to dismiss charges that he filed against the President of the Branch, Mike Miller.

The charges involved an incident that occurred on March 11, 2004 at the Sandy, Utah station. Following a verbal altercation between Brother McNees and Brother Miller, Brother McNees left work apparently suffering symptoms of stress. Before leaving, appellant received Forms CA-1 and CA-16 from management for the purpose of filing a compensation claim with OWCP. Postal management thereafter commenced a "Violence in the Workplace" investigation of the incident. Pursuant to this investigation, and to prepare a response to appellant's OWCP claim, management requested written statements from several individuals, including Brother Miller. In response to this request, Brother Miller submitted a written statement which contained the following assertion: "Steve McNees' anger and stress levels were, in my opinion, self-inflicted and, at the most, due to an administrative action between he and myself and not the Postal Service and do not amount to a Traumatic Injury." Under his signature, Brother Miller listed the titles "Utah State Compensation Specialist" and "Branch President Branch 111, NALC."

OWCP ultimately denied appellant's claim. By letter dated August 17, 2004, Brother McNees filed charges against Brother Miller pursuant to Article 10 of the CGSFB.

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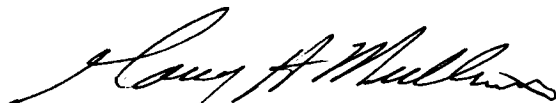
The thrust of the charge is that the written statement submitted by Brother Miller caused the denial of appellant's OWCP claim. Appellant alleges that the submission of this letter constituted "negligence, gross negligence, misconduct and gross misconduct."

On September 9, 2004, an investigating committee was appointed by the Vice President of the Branch. On October 14, 2004, after receiving the committee's report, the Branch voted 78 to 6 to dismiss the charges. This appeal followed.

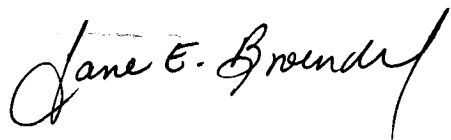
We have concluded that this appeal lacks merit and must be denied. The evidence clearly demonstrates that Brother Miller wrote the letter at issue solely in his capacity as a witness to the incident at the request of postal management. The signature line on Brother Miller's letter, by itself, is insufficient to show that he ever acted in an official capacity either as Branch President or as the State Association's Compensation Specialist. Moreover, it is undisputed that appellant never requested that Brother Miller act as his representative in connection with the OWCP claim. Thus, there is no basis for any claim that Brother Miller violated any duty to represent appellant before the OWCP.

Accordingly, it is the decision of the Committee that this appeal must be, and hereby is, ***DENIED.***

Sincerely yours,



GARY H. MULLINS, Chairman
Committee on Appeals



JANE E. BROENDEL, Member
Committee on Appeals

Lawrence D. Brown, Jr.

LAWRENCE BROWN, Member
Committee on Appeals

GHM/KES/cyn

cc: Stephen McNeas, Appellant
Paul Price, National Business Agent
William Young, President