

50 years of postal interest arbitration



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As we have highlighted in these pages this year, 2020 marks the 50th anniversary of the Great Postal Strike of 1970. After we overcome the COVID-19 pandemic, we will find a way to properly celebrate the brave union members who risked everything to win collective-bargaining rights for Post Office employees.

Our plans to do so in New York in March, and at our 2020 biennial convention in August, had to be indefinitely postponed (see page 9). But this month I want to celebrate a less-appreciated legacy of the 1970 strike—our system of interest arbitration. That's because, in September, we initiated the NALC's seventh interest arbitration since the Postal Reorganization Act (see story on page 4).

Interest arbitration is the process we use to reach a contract settlement when voluntary efforts to negotiate a contract setting the terms and conditions of city letter carrier employment reach an impasse. It is an alternative to what parties in the private sector use to force an agreement—a union strike or a management lock-out. Instead, the parties appoint union and management arbitrators, who then select a neutral arbitrator to serve as the chairman of an arbitration board. The board then conducts hearings where both sides present evidence and testimony in support of their bargaining positions on pay, work hours, leave policies and other employment matters. Once the board hears all of the evidence, it meets in private (executive session) to decide the contents of our National Agreement, often using the evidence presented to negotiate compromises on the issues in dispute. The resulting arbitration award is final and binding on the parties.

We have used interest arbitration six times in our prior 13 rounds of collective bargaining. The NALC's officers, staff and attorneys began preparing for the current arbitration long before formal negotiations to replace the 2016-2019 National Agreement began in June 2019. Despite our best efforts to reach a negotiated settlement, which continue to this day, we decided earlier this year to proceed to arbitration, and the parties chose Arbitrator Dennis Nolan to serve as the neutral chairman. NALC's longtime outside legal counsel, Keith Secular, serves as the union arbitrator.

This time around, amid a global pandemic, we've been forced to be creative and innovative to pull off the arbitration safely. Instead of meeting in person in Washington, we are conducting hearings virtually for the first time, using video technology. All

of the arbitrators, attorneys and witnesses are working from different locales around the country and meeting via Zoom calls.

But the process is basically the same one we have used in the past: The two sides alternate in providing expert testimony, data and arguments in support of their contract proposals. Witnesses testify and are cross-examined, rebuttal and sur-rebuttal witnesses are called to reply and are, in turn, cross-examined. Formal exhibits are presented and hearing transcripts are produced by a court reporter. The process gives both sides a chance to make the case for their views and the chance to convince the board to adopt their proposals.

At a time when labor strikes have become exceedingly rare due in part to judicial and legislative constraints that have weakened the right to strike in the United States, interest arbitration gives workers and their unions an alternative way to achieve their collective-bargaining goals. Indeed, last year, there were just 27 strikes in the United States involving 1,000 or more workers—compared to 371 strikes in 1970. So interest arbitration is especially valuable when the strike option is not present. That is why it is most often used in the public sector, especially for police and fire departments, where binding arbitration provides a fair way for parties to resolve their collective-bargaining disputes without disruptions in essential services. But it could be used in the private sector, too. In fact, the major labor law reform bill passed by the House of Representatives in February (the PRO Act) calls for interest arbitration to be used for first contracts when new bargaining units are formed.

We owe the brothers and sisters who went on strike in 1970 a huge debt of gratitude. They not only secured the collective-bargaining rights that catapulted letter carriers into the middle class, but they also won our right to place our collective-bargaining demands before an interest arbitration board. The law that grew out of the strike, the Postal Reorganization Act of 1970, provided for the process we are using right now to advance our interests. It may not have been a perfect substitute for the right to strike in 1970, but it has become especially valuable in 2020, when the right to strike barely exists. It is a time-tested process that has served our union well.

Of course, it is the NALC's strong preference to reach voluntary agreements that can be sent out to the membership for a ratification vote. For that reason, I continue to engage postal management in order to reach a voluntary agreement even as the arbitration proceeds—nothing in the process precludes us from doing so. We will continue to update members, via the NALC website and our mobile app, on the progress of the interest arbitration—and on any bargaining developments of significance.

Here's to 50 years of collective bargaining—and to 50 years of interest arbitration as well.