

Postal clerk fired for National Guard service ordered reinstated

The U.S. Postal Service must reinstate a clerk fired almost 14 years ago after the agency mistakenly concluded that he had missed too much work while on active duty with the Army National Guard, the Merit Systems Protection Board ruled in a decision

last week. For Richard Erickson, accumulated back pay, legal fees and other damages could add up to as much as \$2 million, his attorney, Matthew Estes, said in a phone interview Monday. This was the third ruling the full, three-member board had rendered on Estes' appeal, which dates back to 2006. The case has also gone twice to the U.S. Court of Appeals for the Federal Circuit. "We're happy to see the light at the end of the tunnel," said Estes, with the firm Tully Rinckey. According to the MSPB ruling, the Postal Service can appeal the latest ruling to the appellate court. Citing the possibility of more litigation, a Postal Service spokeswoman declined comment. Erickson, who started with the Postal Service in 1988, was a distribution clerk at a Fort Myers, Fla., mail processing plant when he was fired in 2000 for excessive use of military leave, according to Estes and the MSPB ruling. Under the Uniformed Services Employment and Reemployment Rights Act, the civilian jobs of members of the military are protected as long as their cumulative military service with a particular employer is no more than five years. Erickson, now a Guard sergeant major stationed at Fort Bragg, N.C., learned only years later that he could appeal his dismissal. An administrative judge then found that he had not breached the five-year threshold and thus qualified for protection under USERRA. But the full board initially denied relief on the grounds that Erickson's military service was not a key factor in the Postal Service's decision to fire him and that, in any case, he had not asked for his job back after finishing up one round of active-duty service in 2005. The federal appeals court later reversed that decision and sent the case back to the MSPB. Under the latest ruling, the Postal Service has 20 days to give Erickson his job back and two months to pay him the undisputed amount of back pay, interest and other benefits.