

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

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RESOLVED



STEP B DECISION

Step B Team: Laura Maglaris
James Chandler

Decision: RESOLVED
USPS Number: G11N-4G-C 16271960
Grievant: Kelvin Bosley
Branch Grievance Number: 421-314-16
Branch Number: 421
Installation: San Antonio
Delivery Unit: Heritage
State: Texas
Incident Date: 4/9/2016
Informal Step A Meeting Date: 4/16/2016
Formal Step A Meeting Date: 4/27/2016
Date Received at Step B: 5/2/2016
Step B Decision Date: 5/3/2016
USPS Issue Code: 05.0000
NALC Issue Code: 508099

District Grieving: Rio Grande
District Deciding: Dallas

Formal Step A Parties:
James C. Jones, USPS
Kelvin Bosley, NALC

ISSUE: Did management violate Article 5 of the National Agreement when they unilaterally ended a past practice of allowing the use of an office radio? If so, what is the appropriate remedy?

DECISION: The DRT **RESOLVED** this grievance. A violation did occur when management unilaterally ended the established past practice of allowing the use of an office radio. The practice of allowing the use of an office radio is reinstated with the following restrictions:

Only one radio is to be playing that is audible to everyone. If individuals choose to listen to their personal devices, they must use headphones.

The volume must be maintained at a level that does not interfere with intercom announcements or conducting business on the telephone.

EXPLANATION: The undisputed facts on Form 8190 state that "On 4/9/2016 management discontinued the use of the office radio."

The Union contends the Heritage 2 office has an established past practice of allowing the use of an office radio to be played while carriers are in the office in the morning. The Union contends this practice has been in place for over 20 years. The Union contends management abruptly ended the past practice without engaging in any effort of bargaining with the Union.

Management contends there was no violation as the USPS never provided the employees a radio on the first place. Management cites Article 3 as justification and stated that office efficiency improved once the radio was removed. Management stated a directive was issued to all employees to remove all radios on the workroom floor that were playing without headphones. Management contends they constantly had to reduce the volume so that phone conversations could be held throughout the day. Management contends multiple radios were playing at the same time and carriers would increase their volume attempting to drown out the music they did not want to listen to. Management contends it presents a safety hazard as fire drills and safety announcements could not be heard. Management contends they are not required to engage in bargaining to end this practice.


JCAM, Page 5-4:

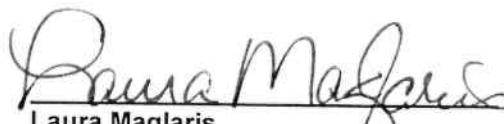
Changing Past Practices that Implement Separate Conditions of Employment. If the Postal Service seeks to change or terminate a binding past practice implementing conditions of employment concerning areas where the contract is silent, Article 5 prohibits it from doing so unilaterally without providing the union appropriate notice. Prior to making such a change unilaterally, the Postal Service must provide notice to the union and engage in good faith bargaining over the impact on the bargaining unit. If the parties are unable to agree, the union may grieve the change.

Management changes in such "silent" contracts are generally not considered violations if 1) the company changes owners or bargaining unit, 2) the nature of the business changes, or 3) the practice is no longer efficient or economical. The first of these has rarely arisen in Postal Service cases involving its numerous bargaining units.

A change in local union leadership or the arrival of a new postmaster or supervisor is not, in itself, sufficient justification to change or terminate a binding past practice, as noted in the previous paragraph.

The DRT determined based on the contents of the file that a violation occurred when management abruptly ended an established past practice without following the provisions in Article 5.


James Chandler
USPS Step B Representative


Laura Maglaris
NALC Step B Representative

cc: Rio Grande DRT

Contents: 8190, NALC Requests, NALC Contentions, Employee Statements, M-00517, DRT Decision G11N-4G-C16082073, Route Vacancy Notice, Table of Contents, USPS Contentions, Management Graphs on Office Variance