

TB

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284-9608
PHONE 210-368-1768, FAX 210-368-8525



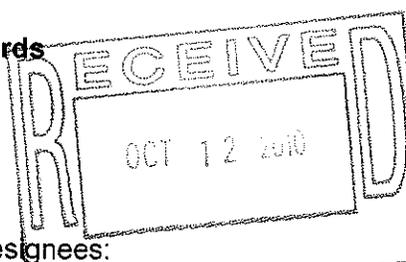
STEP B DECISION

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Step B Team:
USPS:
Rene Benavidez
NALC:
Emre Edwards

Decision: **RESOLVE**
USPS Number: **G06N-4G-C 1033 9477**
Grievant: **Class**
Branch Grievance Number: **421-929-10**
Branch: **421**
Installation: **San Antonio**
Delivery Unit: **Cedar Elm**
State: **Texas**
Incident Date: **08/21-27/10**
Date Informal Step A Initiated: **09/10/2010**
Formal Step A Meeting Date: **09/15/2010**
Date Received at Step B: **09/27/2010**
Step B Decision Date: **10/08/2010**
Issue Code: **01.6000**
NALC Subject Code: **100112**

District:
Rio Grande



Formal A Designees:
NALC: **M. Irizarry**
USPS: **E. Ulanoff**

ISSUE: Was the contract violated when one or more acting supervisors performed bargaining unit work or had craft overtime immediately before or after higher level detail? If so, what is an appropriate remedy?

DECISION:
The Dispute Resolution Team (DRT), Step B, mutually agreed to **RESOLVE** this grievance. Management violated Articles 1 and 41. The carriers listed below are awarded lump sum taxable payments as indicated. All pay adjustments have been completed at Step B; no additional action is required.

EIN	Name	Amount	EIN	Name	Amount
02188050	Sedillo, D A	\$30.89	01994982	Kruithof, J	\$30.89
02090689	Pucklewicz, KD	\$30.89	03474342	Lechuga, C	\$30.89
02410203	Molina, E H	\$30.89	02063488	Sanchez, R L	\$30.89
02053045	Gonzales, A R	\$30.89	02332849	Harris, D N	\$30.89
03159547	Mercereau, A E	\$30.89	03373613	Mora, M A	\$30.89
02302426	Pena, N	\$30.89			

EXPLANATION:
The union contends that two acting supervisors have been "jumping back and forth" from management to craft duties and that the union has not been given the Forms 1723 until after the 204Bs have delivered the mail. The union further contends that the Form(s) 1723, showing the detail's beginning and ending times, should be provided to the union in advance of the detail or the modification thereto.

The union explains that the Forms 1723 were not received until 8/30/2010; after the work had been performed, thus "making it up as they go along" and allowing the two

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individuals to deliver mail while they are detailed to a higher level. The union detailed the days, times, duration and assignments of the 204Bs they allege constituted the violations.

As remedy, the union asks for a cease and desist and payment at the applicable rate to the carriers on the ODL for the hours worked by the acting supervisors (totaling 40 hours).

Management contends that both acting supervisors have Forms 1723 on file for this assignment but were not paid higher level while carrying mail. Management explains that one worked four days in the craft during August 21-27 but was not paid higher level for that time and that he did not work eight hours of full day overtime.

Management explains that the acting supervisor was sent to deliver mail on one day (August 23) because an employee was injured and returned to work with medical limitations. As remedy, management offered to supply the union with Forms 1723 and to pay 6.13 hours of overtime worked by the acting supervisors.

The DRT reviewed the case file and noted that there was no dispute that the union had not been given the Forms 1723 prior to the details of each of the acting supervisors. The union makes the statement that Forms 1723 were not received until August 30 (three days after the conclusion of the incident dates cited). Another document in the file shows that Forms 1723 were requested and were received on September 11. Neither date was disputed by management; management made an offer to supply the Forms 1723 including any updated Forms 1723 in the future. The only Forms 1723 in the file were included in management's contentions. Those Forms 1723 detailed the two acting supervisors to various dates of higher level activity, all of which referenced a timeframe **after the incident dates** cited by the union. The violations were alleged to have occurred during the week that ended on August 27 (with applicable Forms 1723 received on August 30). None of the Forms 1723 in the file show a begin date of a detail before August 28.

The Employee Everything Report in the file evidenced that Acting Supervisor Morrison performed higher level duties from August 21 through August 25. On August 27 he delivered mail for 10 hours. The EER shows that Acting Supervisor Scruggs spent 8 hours on August 21 as a 204B. On August 23, he spent 4.71 hours on higher level followed by 7.42 hours performing bargaining unit work (including 2.00 hours of overtime and 2.13 hours of penalty overtime). The same report reveals that Acting Supervisor Scruggs performed craft duties on August 24, 26, and 27. There was no data in the file for either employee for other days before or after the week in question.

The DRT mutually agreed that there was no dispute in the case file that the Forms 1723 were not received in advance of or at the time of the decision to return the two employees to craft duties. The DRT mutually agreed that the appropriate remedy for that violation was \$25.00 for each of the days that the 204Bs performed bargaining unit work (as evidenced by the EER) prior to receipt of the Forms 1723. See below:

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M-00755

UNITED STATES POSTAL SERVICE
Labor Relations Department
475 L'Enfant Plaza, SW
Washington, DC 20260-4100

Mr. Halline Overby
Assistant Secretary-Treasurer
National Association of
Letter Carriers, AFL-CIO
100 Indiana Avenue, N.W.
Washington, DC 20001-2197

MAY 22 1987

Re: Class Action
Laramie, WY 82070
H4N-4U-C 26041

Dear Mr. Overby:

On April 23, 1987, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The question in this grievance is whether management must provide copies of Form 1723 to the local union in advance of the detail it reflects.

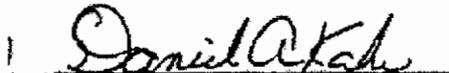
During the discussion, we mutually agreed that the following would represent a full settlement of this case.

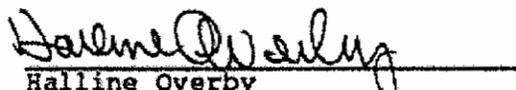
In accordance with Article 41, Section 1.A.2, of the National Agreement, Form 1723 "shall be provided to the union at the local level showing the beginning and ending times of the detail." Such copies of Form 1723 should be provided to the union in advance of the detail or modification thereto.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Time limits were extended by mutual consent.

Sincerely,


Frank E. Poli
Grievance & Arbitration
Division


Halline Overby
Assistant Secretary-Treasurer
National Association of Letter
Carriers, AFL-CIO

Additionally, the EER evidenced violations of the following, totaling the number of hours offered in proposed settlement of this grievance by the USPS Formal A designee:

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M-01177 Step 4

August 30, 1993, H0N-5R-C 13315

The issue in this case is whether management violated the national agreement when an employee who had been working in a 204-B assignment earlier in the day worked bargaining unit overtime at the conclusion of his shift. During our discussion, we agreed to the following:

- 1. An acting supervisor (204-B) will not be utilized in lieu of a bargaining-unit employee for the purpose of bargaining-unit overtime.*
- 2. The PS Form 1723 shall determine the time and date an employee begins and ends the detail.*
- 3. An employee detailed to an acting supervisory position will not perform bargaining-unit overtime immediately prior to or immediately after such detail unless all available bargaining-unit employees are utilized.*

Due to the variety of situations that could arise, each case should be decided based on the particular facts and circumstances involved.

The DRT mutually agreed that a lump sum remedy of \$339.55 distributed amongst available overtime desired list carriers was the appropriate remedy.

Grievance File Contents:

PS Form 8190

Extension

Union Contentions

Overtime Desired List, 2 pages

Request for a Formal A Meeting

Employee Everything, 9 pages

Informal Step A Request

Management's Contentions, 18 pages

JCAM excerpt

MRS excerpts, 2 pages

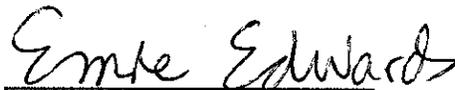
Document request Item 0-13, 2 pages

Additions and Corrections, 37 pages



Rene Benavidez

USPS Step B Representative



Emre Edwards

NALC Step B Representative

cc: Manager, Labor Relations, Southwest Area
District Manager, Rio Grande District
NALC NBA, Region 10
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Postmaster, San Antonio
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File