

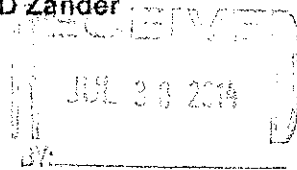
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STEP B DECISION

Step B Team:
USPS: Teresa A. Hardy
NALC: Mark L. Malone

District:
Rio Grande

Step A Reps:
USPS: M Moreno
NALC: D Zander



Decision: **RESOLVE**
USPS Number: **G11N-4G-C 1417 4387**
Grievant: **Class Action**
Branch Grievance Number: **421-356-14**
NALC Branch #: **421**
Installation: **San Antonio**
Delivery Unit: **Beacon Hill 48-7953**
State: **Texas**
Incident date: **04/01/2014**
Date Informal Step A: **04/18/2014**
Formal Step A Meeting Date: **05/06/2014**
Date Received at Step B: **05/14/2014** (Aus 06/02/2014)
Step B Decision Date: **07/10/2014**
Issue Code: **08.5400**
NALC subject code: **120050**
Original Step B Received Date: **05/14/2014**
Date Sent to Assisting Team: **05/30/2014**

TIME LIMITS AT STEP B EXTENDED BY MUTUAL AGREEMENT

ISSUE: Was there a violation of Article 8 of the National Agreement by the distribution of overtime opportunities and hours during the 1st Quarter of 2014? If so, what is an appropriate remedy?

DECISION: DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management violated Article 8.5.C.2.b when they failed to maintain the equitability for strings A, and B. The carriers listed below from Quarter 1, 2014 will be afforded the opportunity to be made equitable in Quarter 4, 2014 (July thru October) in the amounts listed below. See DRT Explanation.

The case files shows that in String A carriers Rocha (-3 hours), Zander (-19 hours) and Whaley (-17 hours) were not afforded equitable overtime opportunities and hours. The case file shows that in String B carriers Criollo (-63 hours), Garcia (-94 hours), and Matthies (80 hours) were not afforded equitable overtime opportunities and hours

The following carriers listed below are awarded lump sum taxable payments as indicated for failure to adhere to the Step B Decision G11N-4G-C 1336 8735 Decision Date 01/13/2014. All pay adjustments have been completed at Step B, no other action is required.

String A

02023511	Rocha, GE	\$1162.50
02114220	Zander, D	\$1,275.00

String B

02324098	Criollo, JE	\$375.00
02264565	Garcia, EW	\$487.50

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EXPLANATION:

The union contends management failed to equitably distribute overtime opportunities and hours equitably according to Article 8 and the current local memorandum of understanding. Management also had rollover hours from the quarter 3 of last year to make up in quarter 1. The union has provided a spreadsheet showing a clear and striking disparity on each string, not only in the number of opportunities between the high carrier and the low carriers, but also shows that management consistently gave the high carriers a disproportionate amount of overtime in comparison per opportunity. Management contends that several of the employee were either on annual leave and therefore not available. Management failed to keep a current equitability chart during the quarter and found themselves in a hole at the end of the quarter. The requested remedy includes rollover hours from the previous quarter as detailed in the included Step B decision. The union is requesting a monetary remedy on certain carriers due to the rollover hours and based on the fact that there is no possible way to make up the hours in the next quarter. The union contends that management failed to maintain equitable distribution in string 'A' and string 'B'.

Management contends the union fails to understand that there is a difference between number of opportunities available and those that are unavailable. Management will show that the numbers of hours that are shown are within the nine hour variance as outlined in the LMOU 2006. During the quarter management has made every effort to distribute equitably the opportunities for overtime among those on the overtime desired list. Management has managed the operations entrusted to it as efficiently as possible. Unfortunately, this will not always satisfy the overtime desires of limited duty employees. Not all overtime opportunities fall under their physical abilities. The contract states that the employee needed for overtime must have the necessary skills. It does not state that management must take into consideration the limited skills of a limited duty employee. Neither management nor the union has the right to circumvent the contract. Management is not obligated to guarantee a limited duty employee any overtime. The agreement between the NALC and the USPS was clearly established to have both missed opportunities and not available for overtime placed in the contract. Both parties at the national level understood that if there was no difference between missed opportunities and not available for overtime, it would be very difficult not only to try and make an employee equitable the next quarter but also to manage the operations needed daily to be a functional organization. The carriers that are said to be out of variance are not due to missed opportunities but rather their unavailability. National Arbitrator Bernstein ruled "Missed opportunities for overtime must be made up for with equitable distribution of overtime during the quarter unless the bypassed carrier was not available.

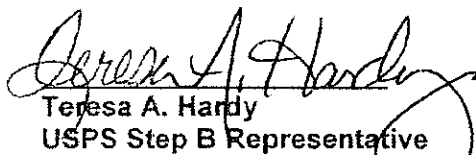
Step B discussion

The case file contains two overtime tracking charts; neither of the charts identifies the origin, union/management. The results on those charts present some slight differences in the total hours worked. Management as stated in their position paper did show the number of hours was within 9 as required by the LMOU in strings C, D, E and F. While management states that limited duty carriers should not be considered, the case file does not provide any statement regarding any limitations. It was noted that carriers Chapa (A) and Sullivan (B) worked a significantly less amount of overtime than the other carriers.

The case file does contain a request from carrier Hidalgo to remove his name from the overtime desired list as of March 29th; his non-scheduled day. While this action would preclude any obligation to equalize this individual in the next quarter had he been below the acceptable level, the high carrier removing his name from the list one day prior to the end of the quarter does not change the distribution of overtime.

The two charts do not completely agree on the number of hours worked by carrier Hidalgo. A review of the case file shows that the chart recording 184.19 hours included three dates (January 17th, March 8th and March 28th) with 8 hours of overtime, dates that the employee everything report shows carrier Hidalgo was not at work. However, the file also shows that the distribution of overtime within this string can by no means be considered equitable. Carrier Hidalgo worked a minimum of 60 hours and as much as 90 hours more overtime than the other carriers in the string. Given this it is reasonable to conclude that management's position that overtime was distributed equitably cannot be sustained.

The case file also contains the Step B decision which directed management to equalize carriers in the 1st Quarter of 2014. Management failed to comply when carriers Rocha (31 hours), Zander (34 hours), Crillo (10 hours) and Garcia (13 hours) when not afforded equalizing opportunities.


Teresa A. Hardy
USPS Step B Representative


Mark L. Malone
NALC Step B Representative

cc: Manager, SW Area Labor Relations
Manager, Rio Grande District
Kathy Baldwin, NALC NBA, Region 10
Postmaster, San Antonio, Texas
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Management Formal Step A Designee
NALC Branch President
NALC Formal Step A Designee
DRT File

Grievance file content:

PS From 8190	Handwritten notes (violations) (2 copies)
Extension agreement	Spreadsheets (5 pages)
Information/steward time request	Step B decision G11N-4G-C 1336 8735 (4 pages)
Extension agreement	Management's position (2 pages)
Request for formal meeting	Request to remove name – Hidalgo
Request for steward time	Additions and corrections – union
Union's position (4 pages)	
Spreadsheets (22 pages)	