



STEP B DECISION

Step B Team: Houston District - AOs USPS – Deborah J. Mejías NALC – Reece E. Cox District Grieving: Rio Grande Step A Designees: USPS – Michael Moreno NALC – Richard Gould	Decision: USPS Number: Grievant: Branch Grievance Number: Branch: Installation: Station: State: Incident Date: Informal Step A: Formal Step A Meeting: Received at Step B: Step B Decision Date: Issue Code: NALC Subject Code:	<p style="text-align: center;"><u>RESOLVED</u></p> G11N-4G-C 14341606 Class Action 421-818-14 421 San Antonio Beacon Hill Texas 10/04/14 10/16/14 12/31/14 01/07/15 01/13/15 08.5400 120050
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ISSUE:

Did management violate Article 8.C1.C of the National Agreement when they did not ensure equitable opportunities during the 3rd quarter 2014? If so, what is the proper remedy?

DECISION:

The Dispute Resolution Team has **RESOLVED** this grievance by agreeing that the following carriers will be afforded the make-up overtime opportunities in the 1st quarter, 2015 as charted below. However, if the make-up opportunities are not provided, they will be paid a one-time, lump-sum payment in GATS by **local management** for any of the hours not made-up in quarter 1. [Any necessary payments will be made in GATS at the end of quarter 1, using the same GATS number, G11N-4G-C 14341606.]; The union will be provided a copy of the pay adjustments to show compliance.

EID	Employee	Hours	EID	Employee	Hours
02264565	Garcia, EW	34	01988799	Rodriguez, R	8
02146388	Morales	8	03683707	Whaley	26
02023511	Rocha	20	02114220	Zander	19

If any carrier noted above is on Limited or Light Duty and is unavailable for a makeup opportunity due to medical restrictions, the time will be annotated as unavailable and will be counted as an opportunity. At no time will they be worked overtime in conflict with, or in excess to their medical restrictions. The makeup time will be jointly monitored and tracked by union and management.

BACKGROUND:

The Union at Step A contends that management violated Article 8 of the National Agreement by failing to maintain equitability for Quarter 3. The union maintains there was a disparity in the number of hours and opportunities between the high carrier and the low carriers. For the missed hours and opportunities, the union requests make-up opportunities in Quarter 1, 2015. In addition, Management failed to make-up the rollover hours as outlined in decision G11N-4G-C 1417487.

Management at Step A responds that there is a difference between the number of opportunities available and those that are unavailable. During the quarter management made every effort to distribute equitably the opportunities for overtime among those on the ODL as efficiently as possible. Management and the union do not agree to the amount of hours of missed opportunities and those of unavailability in regards to the following carriers: Rocha, Zander, Whaley, Criollo, and Garcia.

EXPLANATION:

The total overtime hours with the number and quality of opportunities offered, as well as the availability of the carrier to work the subject overtime, must all be taken into consideration when determining equitability. A carrier is considered unavailable if he/she is:

- (1) Working overtime on his/her own assignment;
- (2) Is on Annual Leave, Sick Leave, Military Leave, LWOP, etc.
- (3) Has a medical restriction preventing certain types of overtime work
- (4) If they have been excused for personal reasons
- (5) There may be other litigable reasons not listed here; but if so, they must be documented.

In such cases the carrier's unavailability for the opportunity is marked the same as if it had been worked.

It is up to the local parties to negotiate on the method to be used in determining the fairness of overtime distribution, but it must clearly be consistent with these contractual requirements. Sometimes the local parties agree that equitability is determined on the total overtime and opportunities for all of the carriers, regardless of the different rotating schedules. Others agree that the fair way to determine equitability is based on the overtime and opportunities for the carriers in each rotating Scheduled Day Off (SDO) group.

In this case the LMOU for San Antonio provides the following:

- Equitability will be determined by day off groups
- Equitability is defined as 9 (nine) hours ***(9-hours to what? This needs further clarification from the local parties)***

To determine equitability at the end of the quarter, both the total opportunities **and** total hours must be considered along with the unavailability of a carrier in order to.

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National Arbitrator Bernstein ruled in H1N-5G-C 2988, August 14, 1986 (C-06364), that in determining "equitable" distribution of overtime, the number of *hours* of overtime as well as the number of *opportunities* for overtime must be considered. Overtime worked on a letter carrier's own route on a regularly scheduled day is not counted or considered in determining whether overtime has been equitably distributed among carriers on the list. Missed opportunities for overtime—i.e. one OTDL carrier worked instead of another—must be made up for with equitable distribution of overtime during the quarter **unless the bypassed carrier was not available—i.e. the carrier was on leave or working overtime on his/her own route on a regularly scheduled day, etc.** [Emphasis added]

Management argues that carrier Zander is a Limited Duty employee that "can barely stay within tolerance on a daily basis with the 1 hour of walking." However, as the union noted, Management failed to include any proof of Zander's medical restrictions during Quarter 3; or, how Zander is used for overtime on a regular basis, such as 3.62 hours on September 27th, but not on any SDOs. The charts do not include sufficient information for the time that Zander was actually unavailable due to his restrictions.

The file contains both a union and Management Equitability spreadsheet, which for all appearances contains the same information. Using the data found on the charts, along with both parties' contentions, the Step B team finds the employees noted in the decision above are to be given make-up opportunities in Quarter 1, 2015.

As for the makeup opportunities discussed in the prior Step B decision [G11N-4G-C 14174387, Local 421-356-14], which states:

The carriers listed below from Quarter 1, 2014 will be afforded the opportunity to be equitable in Quarter 4, 2014 (July thru October) in the amounts listed below.
[Emphasis added]

There appears to have been some confusion at the local level as to when the makeup opportunities needed to be completed (*i.e. by the end of Quarter 4, or by October*). Nevertheless, the decision actually states "in Quarter 4, 2014" and Management maintains that is when they would be completed.

At the time this grievance was filed the 4th quarter had not ended. Therefore, any possible dispute concerning management's claim that they made up the opportunities from the prior quarter in quarter 4, 2014 would be a separate issue not addressed in this present grievance.



Deborah J. Mejias 01/13/15
USPS TEAM MEMBER Date



Reece E. Cox 01/13/15
NALC TEAM MEMBER Date

cc: Original File to the Rio Grande Step B Team for distribution

Grievance File: PS Form 8190(s); Union Contentions; Management Contentions; Step B Remand decision; TACS – Employee Moves Report(s); 3972(s); Management's OT Equitability Tracking Chart; Union's OT Equitability Tracking Chart; CA-17; prior Step B decision; OT Desired signup sheet; LMOU; steward designation letter; union's request for docs, time, and Informal A meeting; Time Extension(s)