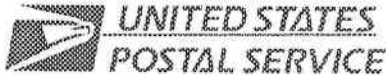


DALLAS DISTRICT DISPUTE RESOLUTION TEAM

Schenequa Neal
USPS Representative

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Andy Alvarado
NALC Representative



STEP B DECISION

Step B Team: Andy Alvarado
Schenequa Neal

Decision: RESOLVED

USPS Number: G11N-4G-C 15295968

Grievant: Class Action

Branch Grievance Number: 421-526-15

Branch Number: 421

Installation: San Antonio

Delivery Unit: Arsenal

State: Texas

Incident Date: 07/01/2015

Date Informal Step A Initiated: 07/25/2015

Formal Step A Meeting Date: 08/28/2015

Date Received at Step B: 09/04/2015

Step B Decision Date: 10/01/2015

USPS Issue Code: 08.5400

NALC Issue Code: 120050

Original Step B Received Date:

Date Sent to Assisting Team:

District: Rio Grande
Deciding District: Dallas

Formal Step A Parties
NALC: P Huth
USPS: J Jordan

ISSUE: Did management violate Article 8.5.C.2 of the National Agreement and LMOU in distributing overtime equitably for the 2nd Quarter (Apr, May and June) 2015? If so, what is the appropriate remedy?

DECISION: Based on the information contained in this grievance the Step B Team resolves this issue in the following manner. There was a violation. The carriers listed below from Quarter 2, 2015 will be afforded the opportunity to be made equitable in Quarter 4, 2015 (October, November and December) in the amounts listed below.

M Espinoza 9 hours
C Wilson 20 hours
R Herrera 19 hours
G Saenz 21 hours

EXPLANATION:

The union contends management did not maintain overtime equitability among the ODL carriers for Quarter 2 of 2015. They state equitability is within 9 hours on each string. They state management failed to post the overtime tracking chart each Saturday.

The union contends the carriers on strings A, B, D, E and F were not made equitable.

The union states they compiled a spreadsheet that shows the total overtime by string, carrier, opportunities, days of availability and the difference between the highest ODL carrier and other ODL carriers on the same string. They state during the quarter, several overtime grievances resulted in monetary award for the ODL carriers which were also factored into the equitability.

The union request that all adjustments be made (through GATS or PS Form 2240) and provided to the union not later than 10 days from the date of decision or otherwise make whole or whatever Step B or arbitrator decides.

Management contends the ODL carriers were kept equitable. They state there were several days the ODL carriers were unavailable for overtime. They state several carriers were on the ODL at the beginning of the quarter but removed themselves before the end of the quarter.

JCAM page 8-11

Equitable Distribution of Overtime Opportunities. Seniority does *not* govern the availability of overtime work for those letter carriers who wish to work overtime. Nor is overtime distributed on a rotating basis. Rather, Article 8.5.C.2 provides that for those carriers who sign the Overtime Desired List, overtime "*opportunities*" must be distributed "*equitably*" (i.e., fairly). This does not mean that actual overtime hours *worked* must be distributed *equally*.

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. (See the explanation under Article 8.5.C.2.d).

JCAM page 8-12

Remedies. National Arbitrator Howard Gamser ruled in NC-S-5426, April 3, 1979 (C-3200) that the Postal Service must pay employees deprived of "equitable opportunities" for the overtime hours they did not work only if management's failure to comply with its contractual obligations under Article 8.5.C.2 shows "a willful disregard or defiance of the contractual provision, a deliberate attempt to grant disparate or favorite treatment to an employee or group of employees, or caused a situation in which the equalizing opportunity could not be afforded within the next quarter." In all other cases, Gamser held, the proper remedy is to provide "an equalizing opportunity in the next immediate quarter, or pay a compensatory monetary award if this is not done..."

Included in the grievance file was a tracking spreadsheet provided by the union where they tracked overtime hours worked daily throughout the quarter. Management made an assertion that several carriers had gotten off the ODL during the course of the quarter. The union's tracking sheet included the overtime worked by the carriers who had gotten off the list in formulating their comparisons.

The union used high overtime usage as comparisons for the strings alphabet days (A-F). For D day, the union used C. Gonzales as the comparison carrier. For E day, the union used M Contreras as the comparison carrier. For F day the union used Rubio as the comparison carrier. The evidence in the grievance file shows carrier C Gonzales removed his/her name from the overtime desired list on 06/18/2015 via an Item 0-13. The evidence in the grievance file shows carrier M Contreras removed his/her name from the overtime desired list on 06/27/2015 via an Item 0-13. The evidence in the grievance file shows carrier Rubio removed his/her name from the overtime desired list on 06/18/2015 via an Item 0-13. Management made the argument of the carriers removing their names from the ODL however; the union was silent on the issue. The evidence in the grievance file supported carriers C Gonzales, M Contreras and Rubio as being on the list and getting off the list during the respective quarters. No violation was proven for D, E and F string days.

The hours comparison used by the union for the carriers who had removed their name from the ODL was improper and should have used the ODL carrier that remained on the list throughout the quarter. Once the carriers removed their name from the ODL, their hours are not tracked in considering equitability.

The union requested a remedy for carrier M Carrasco. A review of the hours worked by carrier Carrasco; the days carrier Carrasco was unavailable; the overtime settlement payout and the 9 hour buffer, carrier M Carrasco was equitable with the comparable carrier Gerkin.

The union made an assertion that on management's tracking sheet, the numbers were incorrect. The DRT reviewed both NALC and USPS tracking sheets and found errors on both tracking sheets. The DRT rendered our decision on the correct numbers.

Management contended several carriers were unavailable for overtime due to leave. The union did not address the contention made by management. The DRT reviewed days the carriers were on leave and/or submitted a PS form 3971 or Item 0-13 requesting to be excused from overtime. The days in which the carriers were unavailable was considered in rendering the decision.

During the DRT discussion, we considered the hours worked by the ODL carriers for each string. We looked at the amount of overtime the carriers could have possibly worked on the days they were unavailable due to being on leave. We considered the overtime resolutions that were due to daily/weekly overtime

violations. We considered the "within 9 hours" as stated by the union. Based on our discussion, we rendered the above decision.



Andy Alvarado
NALC Step B Representative



Schenequa Neal
USPS Step B Representative

cc: DRT Rio Grande District

Contents: PS Form 8190, NALC Formal Step A contentions, Request for a Formal Step A meeting, Time limit extensions, Moratorium letter, Informal Step A request for documentation/steward time/Informal Step A meeting, ODL for April-June 2015. Item 0-13s, NALC quarterly tracking sheet, USPS Formal Step A contentions, USPS quarterly tracking sheet, PS Form 3971s, PS Form 3189, Overtime Alert Report, jump drive, end.