



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G11N-4G-C 1673 7221
Alex Zamora	Grievant:	Class Action
NALC:	Branch Grievance Number:	421-604-16
James Kimbrell	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Laurel Heights
Rio Grande	State:	Texas
	Incident Date:	07/01/2016
	Informal Step A Initiated:	07/19/2016
	Formal Step A Meeting:	08/06/2016
USPS Formal A:	Date Received at Step B:	08/12/2016
M. Moreno	Step B Decision Date:	09/19/2016
NALC Formal A:	Issue Code:	08.5400
E. Rosas	NALC Subject Code:	120050

ISSUE:

Did management violate Article 8.5.C.2 of the National Agreement by failing to maintain equitability of overtime desired list carriers during Quarter 2, 2016? If so, what is the appropriate remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file did evidence a violation. Based on the evidence in the case file the below listed carriers will receive a lump sum payment, as indicated by their names, minus applicable deductions. Payment will be made at the Step B level. See DRT Explanation.

Garcia	03530404	\$973.13
Santos Jr.	02099833	\$2602.88

EXPLANATION:

The union contends management violated the National Agreement when they failed to keep carriers Garcia and Santos Jr. equitable during Quarter 2, 2016. The union contends that equitability could have been maintained, but management at Laurel Heights was given instructions to not authorize penalty overtime by the "area manager." The union contends that management argued inability to maintain equitability due to sick and annual leave usage. The union requested lump sum payments for carriers Garcia and Santos Jr. due to management continuously failing to make an effort to maintain equitability.

Management did not provide any contentions at the Formal Step A.

The **DRT** determined there was a discrepancy of hours/opportunities in this case. The DRT determined that the argument of excessive sick and annual leave usage has no merit in the

instant case for maintaining equitability. Carrier Santos Jr. used 11 days total of sick/annual leave while the high carrier on his string used 9. The DRT considered the additional 2 days when making the decision for Carrier Santos Jr. In Carrier Garcia's string the high carrier is Carrier Nickell, who used 29 days of sick/annual leave while Carrier Garcia only used 12.

Applicable contract language from the JCAM is shown below in relevant part:

Article 8.5.C.2.a

When during the quarter the need for overtime arises, employees with the necessary skills having listed their names will be selected from the "Overtime Desired" list.

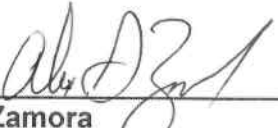
5.C.2.b *During the quarter every effort will be made to distribute equitably the opportunities for overtime among those on the "Overtime Desired" list.*

5.C.2.c. *In order to insure equitable opportunities for overtime, overtime hours worked and opportunities offered will be posted and updated quarterly.*


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..."*

National Arbitrator Benjamin Aaron ruled in H8N-5B-C-17682, April 12, 1983 (C-03319), that management violated Article 8.5 when it assigned a carrier not on the Overtime Desired List to carry a route on overtime on his non-scheduled day rather than splitting up the route between available carriers from the list. Aaron ruled that management must have "good cause" before going off the list.

Based on its review of the case file, the DRT agreed to the remedy above.



Alex Zamora
USPS Step B Representative



James Kimbrell
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Union Contentions (6 pgs)
April Equitability Sheet (6 pgs)
PS Form 3972 (2 pgs)
Step B Decision
Time Limit Extension (2 pgs)

Statement from Ernest Rosas
Union tracking sheet (20 pgs)
Employee Moves Report (50 pgs)
Employee Everything Report (103 pgs)
Carrier Statement
Formal A meeting request

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284-9608
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

Request for Information (2 pgs)

cc:

LR Manager, SW Area
NALC NBA, Region 10
HR Manager, Rio Grande District
Management Formal Step A Designee
NALC Formal Step A Designee

Manager, Rio Grande District
Postmaster, San Antonio, Texas
LR Manager, Rio Grande District
NALC Branch President
DRT File

Payout Request History for Grievance

16737221

[HELP](#)

no data

<p><u>Not Processed By Payroll</u></p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> New (Not yet sent to Payroll) <input checked="" type="checkbox"/> Pending (Not back from Payroll) <input checked="" type="checkbox"/> Submitted (Received acknowledgment from Payroll, awaiting processing) 	<p><u>Payroll Processed</u></p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Paid (Back from Payroll without error) <input checked="" type="checkbox"/> Payroll Error (Back from Payroll with error)
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New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested	
New		2	\$973.13	GARCIA	THOMAS	7366	PP14 FY2016	KBY9N0	09/20/2016	<input type="button" value=" Details"/>
New		2	\$2,602.88	SANTOS	FRANCISCO	1047	PP14 FY2016	KBY9N0	09/20/2016	<input type="button" value=" Details"/>
Total New: \$3,576.01										
Total Pending: \$0.00										
Total Submitted: \$0.00										

Paid and Errors from Finance

Status	Error or Warning	App Seq	Request Amount	Amount Paid	PP Paid	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested
No Data											
Total Paid: \$0.00											
Total Error: \$0.00											