



**RESOLVE**



**STEP B DECISION**

<b>Step B Team:</b>	Decision:	<b>RESOLVE</b>
USPS:	USPS Number:	<b>G11N-4G-C 1729 9825</b>
<b>Mike Goden</b>	Grievant:	<b>Class</b>
NALC:	Branch Grievance Number:	<b>421-1033-2016</b>
<b>Jim Ruetze</b>	Branch:	<b>421</b>
District:	Installation:	<b>San Antonio</b>
<b>Rio Grande</b>	Delivery Unit:	<b>Thousand Oaks</b>
USPS Formal A:	State:	<b>TX</b>
<b>Geri Gonzalez</b>	Incident Date:	<b>09/30/2016</b>
NALC Formal A:	Informal Step A Meeting:	<b>11/17/2016</b>
<b>Daniel Espinosa</b>	Formal Step A Meeting:	<b>No Meeting</b>
	Received at Step B:	<b>12/07/2016</b>
	Step B Decision Date:	<b>01/03/2017</b>
	Issue Code:	<b>08.5400</b>
	NALC Subject Code:	<b>120050</b>

**ISSUES:**

Did management violate Article 8.5 of the National Agreement by failing to distribute overtime equitably during the third quarter of 2016 (Q3)? If so, what remedy is appropriate?

**DECISION:**

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Overtime was not distributed equitably during Q3 2016. The carriers listed below are remedied as indicated in the table. See the DRT Explanation below.

Carrier	EIN	Payout	Make-up Hours in Q1 2017
Cunningham, SJ	02132839	<b>\$250.00</b>	
Owens, DF	03440633	<b>\$372.00</b>	
Hernandez, KD	02016113		<b>7 Hours</b>
Morales, W	02403261		<b>15 Hours</b>
Palmer, MD	03244905		<b>22 Hours</b>
Raeford, SY	02248931		<b>3 Hours</b>
Urias, RC	02178573		<b>22 Hours</b>
Escobar-Ramos, JE	02153597		<b>31 Hours</b>
Graham, PD	02307248		<b>12 Hours</b>

**EXPLANATION:**

Letter carriers in the San Antonio Installation work on rotating day off schedules, which are designated with a letter from A-F. Overtime equitability in San Antonio is tracked by comparing overtime desired list (ODL) carriers with the same letter day off. The union filed this grievance to protest management's alleged failure to distribute overtime hours and opportunities equitably to carriers with rotation schedules **C, E, and F**. Unable to achieve a resolution through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends management violated Article 8.5.c of the National Agreement by “improperly not distribution equability over time 3<sup>rd</sup> Quarter.” The union specifies that three of the six rotation schedules did not have overtime distributed equitably. The union rejected management’s offer of \$250.00 to carriers Cunningham and Owens, noting their true payout must be higher than that.

The union requests the carriers who were not equitable be compensated for the hours they were shorted.

**Management** did not meet at Formal Step A. The file includes a time limit extension for the Formal Step A meeting until 11/29/2016, but no meeting was held; consequently, no management contentions were included in the case file. The union included its characterization of the supervisor’s position at Informal Step A. According to the steward’s notes, Supervisor Mendiola had “issues” with some carriers because their family circumstances affected their availability for overtime. Management at Informal Step A offered to

**The DRT** reviewed the case file and determined management had failed to equitably distribute overtime during Q3 2016. The DRT noted it did not receive the grievance in time to afford make-up opportunities in Q4, 2016, so the opportunities are to be made up in Q1, 2017. The JCAM provides the following relevant language concerning equitable distribution of overtime:

***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).*

*Since full-time flexible employees may have flexible reporting locations within an installation (Article 7), determining whether overtime has been “equitably” distributed can become complex. Of course, if a full-time flexible works within the same overtime “section” for an entire quarter, determining whether overtime has been equitably distributed during the quarter is perfectly straight-forward. However, a fulltime flexible letter carrier assigned to another overtime “section” during a quarter may be entitled to sign the Overtime Desired List in the new section immediately if he/she was on the list in the old section (Article 8.5.A). In such cases the right to an “equitable” share of overtime is only in the new section and is only determined from the time the fulltime flexible letter carrier signed the Overtime Desired List in the new section. Overtime worked in the section to which previously assigned is not a consideration. However, full-time flexible employees will not be moved to another overtime section solely to circumvent the provisions of Article 8.5.C above. The same rule applies in the case*

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

of full-time regular letter carriers who sign the Overtime Desired List in a new overtime section or a new installation during the quarter (Article 8.5.A).

If opting on an assignment under the provisions of Article 41.2.B.3 results in a six day work week, only work over eight hours on the sixth day is counted in determining whether overtime has been equitably distributed among carriers on the list (Article 41.2.B.3).

**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..."

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



**Mike Goden**  
USPS Step B Representative



**Jim Ruetze**  
NALC Step B Representative

**cc:**

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

NALC Branch President  
NALC Formal Step A Designee  
Manager, Rio Grande District  
Postmaster, San Antonio, Texas  
DRT File

**Grievance File Contents**

PS Form 8190  
Union Contentions  
Union Spreadsheets  
Employee Moves Report  
Hours Analysis Report

Request for Information/Informal A Meeting  
Time Limit Extensions  
ODL Sign-up Sheets  
Union's Remedy Worksheets

## Payout Request History for Grievance

17299825

[HELP](#)

no data

<p><b><u>Not Processed By Payroll</u></b></p> <p><input checked="" type="checkbox"/> New (Not yet sent to Payroll)</p> <p><input checked="" type="checkbox"/> Pending (Not back from Payroll)</p> <p><input checked="" type="checkbox"/> Submitted (Received acknowledgment from Payroll, awaiting processing)</p>	<p><b><u>Payroll Processed</u></b></p> <p><input checked="" type="checkbox"/> Paid (Back from Payroll without error)</p> <p><input checked="" type="checkbox"/> Payroll Error (Back from Payroll with error)</p>
--	--

### 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	\$250.00	CUNNINGHAM	SANDRA	9151	PP21 FY2016	BBVXZ0	01/03/2017	De
New		2	\$372.00	OWENS	DONALD	5921	PP21 FY2016	BBVXZ0	01/03/2017	De
Total New: \$622.00										
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											