



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1922 2896
Rose Barner	Grievant:	Class
NALC:	Branch Grievance Number:	421-471-19
Jim Ruetze	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Beacon Hill
Rio Grande	State:	TX
	Incident Date:	04/01/2019
USPS Formal A:	Informal Step A Meeting:	04/11/2019
Leo Rodriguez	Formal Step A Meeting:	04/18/2019
NALC Formal A:	Received at Step B:	04/29/2019
Rigoberto Hidalgo	Step B Decision Date:	05/14/2019
	Issue Code:	08.5400
	NALC Subject Code:	120050

ISSUE:

Did management violate Article 8.5 of the National Agreement by failing to equitably distribute overtime hours that were agreed to be made up in Quarter 1, 2019? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation. The carrier in the table below will be awarded the monetary remedy listed. Payment has been made by the Step B team to the carrier listed below. See the DRT Explanation below.

Carrier	EIN	Monetary Remedy
Zander, D	02114220	\$3449.88

EXPLANATION:

Following the January-March quarter, the union filed a grievance protesting management's failure to make up overtime hours from the previous quarter. 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 failed to make up total hours which were agreed upon from Quarter 4, 2018, grievance #421-0044-19. The union contends in a Formal A settlement management agreed city carrier Darryl Zander will be provided make up opportunities for the amount of 93 hours in Quarter 1, 2019. The union spreadsheet for this quarter shows Hector Gonzales to be the high man with 107 hours and Darryl Zander to be 104.79. This shows Zander was not provided make up opportunities this quarter and was not able to make up the 93 hours he was behind on the fourth quarter of 2018.

The union requests that the affected carrier be paid for the hours he was shorted as a result of management's failure to provide an equalizing opportunity in Quarter 1, 2019.

Management met at Formal Step A but did not provide any contentions.

The **DRT** reviewed the case file and determined overtime hours and opportunities were not fully made up in Quarter 1, 2019. The makeup hours the team considered were from a Formal A settlement, #421-0044-19, dated 01/18/19.

The following excerpts from Article 8.5.C of the National Agreement and explanatory JCAM language outline management's responsibilities in assigning overtime among the overtime desired list carriers:

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*

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 of

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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...**" (Emphasis Added)

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



Rose Barner
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:

LR Manager, Southern 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
DRT File

Grievance File Contents

PS Form 8190
Union Remedy Worksheet (20 pgs)
Formal A Decision Dated 01/18/2019
Union Contentions (2 pgs)
Informal A Request
Formal A Request
OTDL
Hours Analysis Report (60 pages)



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Payout Request History for Grievance 19222896

[HELP](#)

no data

Not Processed By Payroll

- New (Not yet sent to Payroll)
- Pending (Not back from Payroll)
- Submitted (Received acknowledgment from Payroll, awaiting processing)

Payroll Processed

- Paid (Back from Payroll without error)
- 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		1	\$3,449.88	ZANDER	DARRYL	0306	PP8 FY2019	YSZ1BC	05/15/2019	Details
Total New: \$3,449.88										
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											