

RESOLVE



STEP B DECISION

Step B Team:	Decision:	<u>RESOLVE</u>
USPS:	USPS Number:	G16N-4G-C 1843 9781
Alex Zamora	Grievant:	Jeffery Hawkins
NALC:	Branch Grievance Number:	421-915-18
Jim Ruetze	Branch:	421
District:	Installation:	San Antonio
Rio Grande	Delivery Unit:	Laurel Heights
	State:	TX
	Incident Date:	08/07/2018
USPS Formal A:	Informal Step A Meeting:	08/22/2018
Steven Gonzalez	Formal Step A Meeting:	09/29/2018
NALC Formal A:	Received at Step B:	10/04/2018
Joseph Blancarte	Step B Decision Date:	11/06/2018
	Issue Code:	10.5010
	NALC Subject Code:	504451

ISSUE:

Did management violate Article 10 and/or 19 (via the Employee and Labor Relations Manual) of the National Agreement by denying the grievant's request for advance sick leave? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management's processing of the grievant's request for advance sick leave was in conflict with its requirements under the ELM and Article 10 of the National Agreement. Within fourteen (14) days of receipt of this decision, the grievant shall have 150 hours of sick leave advanced to him. The advanced sick leave may be used to cover absences that took place between July 21, 2018 and November 1, 2018. The advanced sick leave shall be repaid in accordance with established procedures. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Jeffery Hawkins, a full-time regular letter carrier assigned to Laurel Heights Station in San Antonio, TX with seniority dating to April 11, 1998. In July of 2018 the grievant submitted a request for Advance Sick Leave in accordance with ELM 513.5. His request was denied by Customer Service Operations Manager (CSOM) Eric Rodriguez. The union filed this grievance to protest what it considered the inappropriate denial of the grievant's request. Unable to resolve the dispute through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends management failed to follow the guidelines in the ELM concerning requests for Advance Sick Leave. The union contends the language in the ELM and in Article 10 of the National Agreement specifies that it is the installation head who has the

authority to approve or disapprove such requests. Eric Rodriguez is not the installation head and therefore exceeded his authority when he disapproved the request. The union further contends the Postal Service has no legitimate basis to disapprove a request for Advance Sick Leave unless they can show there is a reason to believe the applicant will not be able to repay the advance. CSOM Rodriguez' letter offered no reason at all for the denial. The union points out that Advance Sick Leave is not a gift. It is essentially a loan that the grievant will repay. In other words, the Postal Service loses nothing by approving an advance.

The union requests management at Laurel Heights cease & desist this practice immediately and that 240 hours of Advance Sick Leave be immediately approved for the grievant, or otherwise make him whole.

Management contends the first request was denied because the diagnostic codes were not included in the medical documentation and the second request included the same documentation. Management contends it agreed to extend the grievance numerous times to give the grievant time to provide management with ICD-10 (diagnostic) codes for his illness but all he kept submitting was the same FMLA paperwork. Management also contends it is not contractually obligated to approve Advance Sick Leave. Management further contends CSOM Rodriguez did not sign the request for Advance Sick Leave form in the blank where the CSOM's signature should be prior to submitting it to the installation head; he only signed the disapproval letter. Management goes on to contend the steward failed to request the Advance Sick Leave form that contained the installation head's signature.

The DRT reviewed the case file and determined the documentation did not appear to support a decision to disapprove the request. There was medical evidence of the need for the grievant's absences and there was no reason evident in the file that the grievant would not return to work. Page 10-15 of the JCAM includes the following relevant language:

Advance Sick Leave. *Up to 30 days (240 hours) of sick leave may be advanced to an employee with a serious disability or ailment if there is reason to believe the employee will return to duty (ELM Section 513.511). **The USPS installation head has authority to approve such requests.** An employee need not use up all annual leave before receiving advance sick leave. (Emphasis Added)*

The ELM provides similar language:

513.5 Advanced Sick Leave

513.51 Policy

513.511 May Not Exceed Thirty Days

Sick leave not to exceed 30 days (240 hours) may be advanced in cases of an employee's serious disability or illness if there is reason to believe the employee will return to duty. Sick leave may be advanced whether or not the employee has an annual leave or donated leave balance.

513.512 Medical Document Required

Every request for advanced sick leave must be supported by medical documentation of the illness.

513.521 Installation Heads' Approval

Officials in charge of installations are authorized to approve these advances without reference to higher authority. (Emphasis Added)

513.522 Forms Forwarded

PS Form 1221, Advanced Sick Leave Authorization, is completed and forwarded to the Eagan ASC when advanced sick leave is authorized.

Additionally, the DRT could not agree that failure to provide diagnosis codes is a legitimate basis for denying a request for Advance Sick Leave. Such codes are unnecessary to the installation head's evaluation of a request. The installation head only needs to know if there is a medical need for the absence and if there is reason to believe the employee will return to duty.

In this case the FMLA paperwork that management's Formal Step A representative acknowledged had been provided multiple times contained sufficient information to indicate the absence would be medically necessary.

However, that documentation also indicated the maximum amount of sick leave the grievant would need during the period covered by his medical documentation was 150 hours, not the 240 hours he requested. Accordingly, the DRT mutually agreed the appropriate remedy was to grant the grievant 150 hours of Advance Sick Leave.



Alex Zamora
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, San Antonio, TX
DRT File

Grievance File Contents

PS Form 8190
Union Contentions - 3 pgs
WHD-381 (FMLA Rights & Responsibilities)
WHD-380-E (FMLA Medical Certification)
Grievant's Statement
Email from Grievant to Steward
Management Contentions
PS Form 1221 (Advance SL Authorization)
RGD Return to Work Clearance

Requests for Advance SL – 2 pgs
CSOM Rodriguez' Denial of Advance SL
ELM Excerpts re: Advance SL – 5 pgs
Employee Everything Report (13 pgs)
Requests for Steward Time – 6 pgs
Time Limit Extension – 4 pgs
Requests for Information/Meeting – 5 pgs
Response to Request for Information
Request for Formal Step A Meeting