



STEP B DECISION

Step B Team:
USPS: **Jennifer Lewis**
NALC: **Mark L. Malone**

District:
Rio Grande

Step A Reps:
USPS: **A Alderete**
NALC: **R Gould**

Decision: **RESOLVE**
USPS Number: **G11N-4G-C 1325 2282**
Grievant: **Class Action**
Branch Grievance Number: **421-579-13**
NALC Branch #: **421**
Installation: **San Antonio**
Delivery Unit: **Lockhill Station 48-7967**
State: **Texas**
Incident date: **06/05/2013**
Date Informal Step A: **06/17/2013**
Formal Step A Meeting Date: **07/12/2013**
Date Received at Step B: **07/15/2013** (Aus 07/19/2013)
Step B Decision Date: **07/23/2013**
Issue Code: **17.3000, 31.2000**
NALC subject code: **505006**
Original Step B Received Date: **07/15/2013**
Date Sent to Assisting Team: **07/18/2013**

ISSUE: Was there a violation of Articles 17 and/or 31 of the National Agreement when requested information was not provided to the union timely? If so, what is an appropriate remedy?

Was there a violation of Articles 15 and 19 of the National Agreement by management's refusal to comply with Formal Step A and Step B decisions? If so, what is an appropriate remedy?

DECISION: The dispute resolution team mutually agreed to resolve this dispute. Management violated Articles 15, 17 and 31 when they failed to provide the union with relevant requested information timely. TR Gergen (01989298) is awarded lump sum taxable payment of \$50.00. All pay adjustments have been completed at Step B no additional action is required.

EXPLANATION:

The union contends management violated Articles 15, 17 and 31 of the National Agreement when they failed to provide relevant requested documentation timely. On May 31st the union requested information for grievance 421-462-13; the information was not provided in its entirety. The union has grieved this issue for years. There are several Step B decisions ordering management to 'cease and desist' and to provide information within the 72 hours as agreed to in multiple grievances. In 2008 the local parties resolved the same issue and mutually agreed to an appropriate remedy. In addition to the local resolution, the Step B teams have instructed management to comply. Despite these resolutions management continues to fail to provide information timely. The ten (10) 'cease and desist' resolutions have not convinced management to abide by these agreements. For this reason the union is requesting the DRT to honor the previous decisions stating future

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unreasonable delays may result in more severe monetary sanctions. As remedy, the union requests management 'cease and desist' violating Articles 17, 19 and 31 and a monetary remedy of \$250.00 to serve as incentive for management to comply.

Management states the Informal Step A form shows the supervisor signed for the information request on 5/31. The form was incomplete and did not have a date of infraction when given to the supervisor. After that information was provided the supervisor ok's the interviews. The union failed to properly provide their information timely, the form also states documents or interview it does not state both. The documentation was provided to Mr. Gergen in another grievance he and I met on. The steward that initiated this grievance was not the steward that met at the Formal Step A level. Management offered no remedy because the union failed to properly fill out their form and gave management a choice of documentation or interview. This grievance could be considered procedurally defective because the steward who initiated the grievance was not the one that met at the Formal Step A meeting.

Step B discussion

Management's procedural argument must be examined to determine if the merits of the case will be reviewed. Management's procedural argument is that the informal steward refused to meet with management at the Formal Step A and that chief steward met at formal. Just as the union has no right to participate in the selection of a management representative at any level of the grievance process, management has no right to participate in the selection of the union representative. The respective parties' have the right to designate who their representative will be at all levels of the grievance process. This instant case shows that both parties designated representatives at the Formal Step A who were not designated at the Informal Step A; C Gonzales/ T Gergen – informal, A Alderete/R Gould – formal. The union's designation of a representative at the Formal Step A other than the representative at the Informal Step A is not a procedural error and does not render this dispute procedurally defective.

On May 31st the union requested;

1. copies of all safety/stand-up meeting sign in sheets for May 2013
2. copies of all Advo scan sign in sheets for May 2013
3. copies of all 3M sign in sheets for May 25-30, 2013.
4. to interview all carriers.

The Informal Step A form indicates the request is in regard to the use of locally developed forms.

Management states the information was not provided because the information request did not list an incident date. Management's position paper does not include the instruction page for the completion of this form to show that an incident date is required. The form was developed by the union and has been accepted for use in the grievance process at the district and area levels. It is also noted that the union identified the date(s) of incident in their request – May 2013.

On June 5th the supervisor responded to the union's request with the statements:

- 2) no copies was provided due to the fact that the sign in sheets have been in used for the past several yrs. Past practice. (sic)*
- 3) Union Rep. will have a chance to interview carriers at management discretion.*

The supervisor's response to the information request is in contradiction to the National Agreement. Article 19 incorporates all handbooks and manuals which affect wages, hours and work conditions – the ASM (Administrative Support Manual) is such a handbook or manual. That the supervisor pre-determined that a past practice exists is not sufficient cause to refuse to provide the requested documents. In this case, the use of locally developed forms, in use for years or not, is a grievable matter. Whether or not a valid past practice exists may determine the outcome of such a dispute but does not preclude management's obligation to provide the copies. Management cannot refuse to provide requested documentation due to a pre-determination that a contractual violation did not occur.

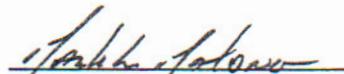
The supervisor also states that the union's request to interview the grievant would be done at management's discretion. While it is agreed that scheduling and workload(s) must be considered, the union's request to interview an employee is a request for information. That the information must be obtained from other than a management representative does alter management's obligation to provide the steward with time to investigate a possible grievance timely, up to and including the right to interviews.

While management at Formal Step A states that the documentation was provided, the union's Formal Step A position dated July 5, 2013 states that the union has yet to receive any documentation for this request. The case file does not contain any documentation to support management's position that the requested documentation was provided.

In fashioning an appropriate remedy the team did consider the union's request for \$250 for management's continual fails to provide information. The Step B team also considered the multitude of informal, formal and Step B decisions contained in this case file all resolving the same dispute all concluding that violations occurred when management failed to provide requested information timely. The case file does show that Steward Gergen was impeded in his ability to investigate a possible contractual violation and to represent the bargaining unit employees. Remedy was so fashioned.



Jennifer Lewis
USPS Step B Representative



Mark L. Malone
NALC Step B Representative

cc: Manager, SW Area Labor Relations
Manager, Rio Grande District
Kathy Baldwin, NALC NBA, Region 10
Postmaster, San Antonio, Texas
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Management Formal Step A Designee
NALC Branch President
NALC Formal Step A Designee
DRT File

Grievance file content:

PS Form 8190
Union's position (4 pages)
Information request
Union's position 421-462-13
Extension agreement
PS Form 8190 421-1111-08
Informal resolution 421-1111-08
Step B decision G06N-4G-C 0913 1214 page 1 of 5
Step B decision G06N-4G-C 0917 7202 (3 pages)
Step B decision G06N-4G-C 0917 7204 (3 pages)
Formal Step A resolutions (3 pages)

Step B decision G06N-4G-C 1133 2916 (4 pages)
Step B decision G06N-4G-C 1133 2898 (4 pages)
Step B decision G06N-4G-C 1133 2925 (4 pages)
Step B decision G06N-4G-C 1133 2958 (4 pages)
Formal Step A resolution
Informal Step A form 421-578-13
Request for formal meeting
Management's position
Information request
Statement C Gonzales
Informal Step A form