



STEP B DECISION

Step B Team:
USPS:
Rene Benavidez
NALC:
Karrie Blough

District:
Rio Grande

USPS Formal A:
A. Alderete
NALC Formal A:
R. Gould

Decision: **RESOLVE**
USPS Number: **G06N-4G-C 1212 1528**
Grievant: **R. Gonzalez**
Branch Grievance Number: **421-142-12**
Branch: **421**
Installation: **San Antonio**
Delivery Unit: **Lockhill**
State: **TX**
Incident Date: **02/22/2012**
Date Informal Step A Initiated: **02/29/2012**
Formal Step A Meeting Date: **03/08/2012**
Date Received at Step B: **03/14/2012**
Step B Decision Date: **03/28/2012**
Issue Code: **07.1220, 07.1330**
NALC Subject Code: **120006, 508799**

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ISSUE:

Did management violate Article 7.1.B.3 of the National Agreement when it failed to utilize a PTF carrier at the straight time rate prior to assigning such work to Transitional Employees? If so, what is the appropriate remedy?

DECISION:

The Dispute Resolution Team, (DRT), mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation of Article 7.1.B.3 of the JCAM. PTF Carrier Ricky Gonzalez (EIN 03567037) will be awarded a lump sum taxable payment of \$200.00. All pay adjustments have been completed at Step B; no additional action is required. See DRT explanation.

EXPLANATION:

The union contends that management violated Article 7.1.B.3 of the National Agreement on February 22, 2012 by willfully assigning Transitional Employees at the straight time rate prior to assigning the work to the PTF carrier at the straight time rate. PTF Carrier Gonzalez had a hold down on route 3080. The week prior to the date in question, the steward notified management about a possible violation if management failed to schedule the PTFs on their SDOs during the holiday week. Regardless of the notice given to management on several different occasions before the schedule was posted about the pending violation, management still did not schedule Carrier Gonzalez.

The union refutes management's claim that it called Carrier Gonzalez on the day before his SDO at 5:00 PM to request him to work and did not get an answer so it was unable to schedule him. The union states the grievant was still working at 5:00 PM and could have been notified upon his return to the office. The opportunity to notify the grievant existed before the schedule was made and continued up to the day prior to the grievant's SDO. The union does not agree that the claimed last ditch effort to contact the grievant due to sick call-ins could in any way be seen as making every effort.

RIO GRANDE DISPUTE RESOLUTION TEAM
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The union requests as remedy that management cease and desist violating Article 7.1.B.3 of the National Agreement. The union also requests that PTF Gonzalez be paid for 8 hours at the straight time rate of pay for the hours which he would have worked had management scheduled him properly or otherwise make whole.

Management contends it did not schedule PTF Gonzalez to work his SDO as per his hold-down on route 3080 during the holiday week. Management has provisions under Article 3 to determine the methods, means and personnel by which such operations are to be conducted.

There is no specific language anywhere that states that on any given day a TE cannot exceed PTF hours. There are no provisions that state this should be done DAILY. PTF carriers cannot sign up or get on the ODL. The union could not show management any language that requires management to abide by this daily, the day in question.

On the morning of the 22nd, the unit received a call-in from another carrier. Management did make an effort to call-in PTF Gonzalez to come into work; there was no answer. After this attempt was made, the unit was sent help from another unit.

Management did properly schedule those who possess the necessary skills, plus those who volunteered and mandated by juniority as per Article 11. Management did not violate Article 7.1.B.3 by not scheduling PTF Gonzalez in advance to work his SDO as per the hold-down.

The DRT mutually agreed that the case file evidenced that the grievant was not utilized at the straight-time rate prior to assigning work to the Transitional Employees. The JCAM Section 7.1.B.3 states in relevant part:

7.1.B.3 3. Over the course of a pay period, the Employer will make every effort to ensure that qualified and available part-time flexible employees are utilized at the straight-time rate prior to assigning such work to transitional employees working in the same work location and on the same tour, provided that the reporting guarantee for transitional employees is met.

The parties agreed to the following in the Step 4 Settlement E90N-4E-C 94026528, February 12, 1996 (M-01241):

*The issue in these grievances involves the scheduling priority to be given part-time flexible employees over transitional employees. During our discussion, we mutually agreed as follows: During the course of a **service week**, the Employer will make every effort to ensure that qualified and available part-time flexible employees are utilized at the straighttime rate prior to assigning such work to transitional employees working in the same work location and on the same tour, provided that the reporting guarantee for the transitional employee is met.*

(Emphasis added)

The PTF should have been scheduled before assigning that work at the straight-time rate to the Transitional Employees. The appropriate remedy is to pay the PTF the difference in what he would have worked had he been scheduled properly and hours actually worked, which in this case is 8 hours at the straight-time rate.



Rene Benavidez
USPS Step B Representative



Karrie Blough
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Union Contentions (2 pgs)
Memo for Record
Copy of Calendar (2 pgs)
Carrier Schedule (4 pgs)
Employee Everything Report (8 pgs)
Employee Moves Report
Hours Analysis Report (7 pgs)

Overtime Alert Report
Informal A Request
Formal A Request
Management Contentions
JCAM Excerpt
Routing Slip
Leave Request

cc: **Manager, Labor Relations, Southwest Area**
District Manager, Rio Grande District
Kathy Baldwin, NALC NBA, Region 10
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Postmaster
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File