

RESOLVE



STEP B DECISION

Step B Team:	Decision:	<u>RESOLVE</u>
USPS:	USPS Number:	G16N-4G-C 1914 5553
Robin Gutman	Grievant:	Class
NALC:	Branch Grievance Number:	421-223-19
Louise K. Jordan	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Beacon Hill
Rio Grande	State:	TX
	Incident Date:	02/02 – 02/08/2019
	Informal Step A Initiated:	02/20/2019
	Formal Step A Meeting:	02/28/2019
USPS Formal A:	Date Received at Step B:	03/05/2019
Frank Ossont	Step B Decision Date:	03/07/2019
NALC Formal A:	Issue Code:	08.5450
Rigoberto Hidalgo	NALC Subject Code:	120051

ISSUE:

Did management violate Article 8.5 of the National Agreement by mandating non-overtime desired list (non-ODL) to work overtime on and off assignment and work assignment carriers to work overtime off assignment when there were available ODL carriers? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file did evidence a violation of Article 8.5. Management must adhere to the provisions of Article 8 of the National Agreement. Payment has been made by the Step B team to the carriers listed below. See DRT Explanation.

EIN	Employee	Remedy	EIN	Employee	Remedy
04323581	Bosley, K	\$20.30	02146388	Ramirez, E	\$170.38
04339668	Montalvo, A	\$19.46	02114220	Zander, D	\$112.00
03515425	Rohrbeck, M	\$17.29	04223066	Hernandez, R	\$67.76
02278591	Pantoja, C	\$18.62	04409239	Arce, D	\$77.84
03509712	Macias Jr, R	\$16.38			

EXPLANATION:

The union contends management was in violation of Article 8.5 on the above incident dates at the Beacon Hill Post Office in San Antonio, Texas when work assignment carriers and non-ODL carriers were utilized to carry overtime in lieu of available ODL carriers that could have performed the work.

The union filed this grievance to challenge management's failure to properly apply the provisions of Article 8.5 of the National Agreement. Unable to achieve a resolution through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

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The union contends management violated the contract by mandating non-ODL to work overtime on and off assignment and work assignment carriers to work overtime off assignment when there was auxiliary assistance available from ODL carriers and city carrier assistants (CCAs).

The union requests management cease and desist violating the provisions of Article 8 and requests a remedy of 50 percent of the straight rate of pay for non-ODL carriers improperly mandated. The union requests the ODL carriers be paid at the appropriate rate for the missed opportunities they should have received.

Management contends they cannot manage undertime because carriers are failing to submit PS Form 3996s (Carrier Auxiliary – Control).

The DRT determined that there was a violation when non-ODL and work assignment carriers were forced to work overtime on and off-assignment when there were available ODL employees. Non-ODL and work assignment carriers were remedied at 50 percent of the straight-time rate. The ODL carriers who were available for the overtime were paid at the appropriate overtime rate. The file contains a request, dated the day of the Formal Step A meeting, for PS Form 3996s submitted by carriers during this incident period. The file does not contain any PS Form 3996s nor a request to extend the Formal Step A meeting until the documentation was available. The DRT fashioned the remedy based on the available reports and information in the case file.

Applicable contract language from Article 8 in the JCAM is shown below in relevant part:

8.5.D If the voluntary "Overtime Desired" list does not provide sufficient qualified people, qualified full-time regular employees not on the list may be required to work overtime on a rotating basis with the first opportunity assigned to the junior employee.

*8.5.G Full-time employees not on the "Overtime Desired" list may be required to work overtime only if all available employees on the "Overtime Desired" list **have worked up to twelve (12) hours in a day** or sixty (60) hours in a service week. Employees on the "Overtime Desired" list:*

- 1. may be required to work up to twelve (12) hours in a day and sixty (60) hours in a service week (subject to payment of penalty overtime pay set forth in Section 4.D for contravention of Section 5.F); and*
- 2. excluding December, shall be limited to no more than twelve (12) hours of work in a day and no more than sixty (60) hours of work in a service week.*


However, the Employer is not required to utilize employees on the "Overtime Desired" list at the penalty overtime rate if qualified employees on the "Overtime Desired" list who are not yet entitled to penalty overtime are available for the overtime assignment.

Mandatory Overtime. *One purpose of the Overtime Desired List is to excuse full-time carriers not wishing to work overtime from having to work overtime. Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment on a regularly scheduled day, management must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime. However, if the Overtime Desired List does not provide sufficient qualified fulltime regulars for required overtime, Article 8.5.D permits management to move off the list*

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and require non-ODL carriers to work overtime on a rotating basis starting with the junior employee.

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



Robin Gutman
USPS Step B Representative



Louise K. Jordan
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Request for Information and Informal Meeting
Request for Formal Step A Meeting
Additional Information Request
Union's Contentions (3 pages)
Union's Article 8 Spreadsheets (10 pages)

Hours Analysis Report (13 pages)
Employee Moves Report (29 pages)
Overtime Alert Report (4 pages)
Overtime Desired List (4 pages)
Carrier Schedule (2 pages)

cc:

LR Manager, Southern Area
NALC NBA, Region 10
Rio Grande District HR Manager
Rio Grande District LR Manager,
USPS Formal A Representative

NALC Branch President
NALC Formal A Representative
Postmaster
DRT File

Payout Request History for Grievance
19145553

[HELP](#)

no data

<p><u>Not Processed By Payroll</u></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><u>Payroll Processed</u></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>
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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	\$16.38	MACIAS	ROGELIO	0298	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$17.29	ROHRBECK	MATTHEW	3249	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$18.62	PANTOJA	CHARLOTTE	2380	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$19.46	MONTALVO	AMANDA	7067	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$20.30	BOSLEY	PHILLIP	1194	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$67.76	HERNANDEZ	RENE	1805	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$77.84	ARCE	DAVID	7717	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$112.00	ZANDER	DARRYL	0306	PP4 FY2019	KMGQXV	03/07/2019
New		1	\$170.38	MORALES	VICTOR	2004	PP4 FY2019	KMGQXV	03/07/2019
Total New: \$520.03									
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											