



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 2036 4868
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421
Jim Ruetze	Branch:	421-953-20
	Installation:	San Antonio
District:	Delivery Unit:	Beacon Hill Station
Rio Grande	State:	TX
	Incident Date:	07/25/2020-07/31/2020
	Informal Step A Meeting:	08/06/2020
	Formal Step A Meeting:	08/20/2020
	Received at Step B:	08/25/2020
	Step B Decision Date:	09/28/2020
	Issue Code:	08.5450
	NALC Subject Code:	120051

ISSUE: Did management violate Articles 8.5.D and 5.G of the National Agreement when working non-Overtime Desired List (ODL) and Work Assignment (WA) carriers on and off their routes by improperly assigning overtime during the week of July 25-31, 2020? If so, what is the remedy?

DECISION: The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation of the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. Non-carriers who were improperly assigned to work overtime were compensated an additional 100% of their straight time rate. ODL carriers were compensated for the missed overtime opportunities at the rate of pay they would have earned if they had performed the work. Management shall assign overtime consistent with the provisions of Article 8.5. Additionally, Steward Kevin Welch's remedy includes \$71.07 for copies of the grievance documents necessary to maintain time limits, in addition to one hour of overtime to make the copies. The payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

EMPLOYEE	EIN	REMEDY	EMPLOYEE	EIN	REMEDY
Orta, JF	02076142	\$479.97	Regalado, DP	02152054	\$784.26
Saucedo, Y	02192055	\$197.65	Sayed, D	04632780	\$419.05
Keating, ME	04511992	\$67.85	Zander, D	02114220	\$19.77
Gilbert, GA	02439335	\$143.67	Gonzalez, HE	03532392	\$358.57
Roller, JC	02176046	\$179.48	Macias Jr, R	03509712	\$227.74

RIO GRANDE DISPUTE RESOLUTION TEAM
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Bosley, PE	04323581	\$59.30	Rodriguez, RJ	04617357	\$354.00
Mazuca, RR	04360805	\$261.08	Melendez, J	01998691	\$529.97
Matthies, KJ	01966651	\$203.55	Gonzalez, E	04350827	\$315.65
Childress, GB	02353498	\$161.37	Johnson, S	01977389	\$271.99
Childs, ME	02380911	\$54.58	Venegas, E	04298245	\$117.71
Zapata, JJ	02148756	\$73.75	Olivas, D	04618971	\$222.43
Cruz, JG	03493112	\$59.00	Perales, AM	03593848	\$246.33
Welch, KB	03415922	\$213.01	Vallejo, ZD	04647116	\$231.28

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at Beacon Hill Station in San Antonio, Texas during the week of July 25-31, 2020. During the week cited, management assigned overtime to non-ODL and WA carriers off their assignments while ODL carriers were available at the regular overtime rate, and ODL carriers were available at the penalty overtime rate.

The union contended at Formal Step A management violated Article 8 of the National Agreement, 8.5.D and 8.5.G of the Joint Contract Administration Manual (JCAM) and M-00884 when they did not maximize the ODL and mandated non ODL/WA carriers to carry overtime on their own routes and carry auxiliary assistance on other routes during the work week of July 25-31, 2020 prior to fully utilizing the ODL and City Carrier Assistants (CCAs). The union also contended the supervisor ordered the steward, an injured employee, to sign a limited duty job offer on the spot. When the steward declined to do so, the supervisor told him to clock out and not to return to work. To maintain time limits, the steward made copies of the file on his own time and at his own expense.

The union requested all ODL and CCA carriers be awarded overtime and penalty overtime. The union requested an award of 100% at the straight rate of pay as the remedy requested by the union for the aggrieved non ODL and/or WA. The union also requested the steward be reimbursed for the cost of a printer and ink because he was barred from returning to the station by the supervisor and had to print out copies of the case file at his own expense.

Management met at Formal Step A. Management provided no contentions.

The DRT reviewed the case file and determined there was a violation of Article 8.5 for the week of July 18-24, 2020 when the overtime among full-time carriers were not assigned in accordance with the provisions of Article 8.5. Overtime for non-ODL carriers *on their own assignments* is governed by the Letter Carrier Paragraph, which is found on pages 8-14 and 8-15 of the JCAM:

***The “Letter Carrier Paragraph.”** For many years Article 8.5.C.2.d also gave management the right to require a letter carrier working on his/her own route on a regularly scheduled day to work mandatory overtime rather than assigning the overtime to a carrier from the Overtime Desired List. However, in the Overtime*

Memorandum first negotiated as part of the 1984 National Agreement, the Postal Service and the NALC added the following qualification, known as the "letter carrier paragraph."

In the Letter Carrier Craft, where management determines that overtime or auxiliary assistance is needed on an employee's route on one of the employee's regularly scheduled days and the employee is not on the overtime desired list, the employer will seek to utilize auxiliary assistance, when available, rather than requiring the employee to work mandatory overtime.

(The complete text of this memorandum is reprinted at the end of this article.)

National Arbitrator Mittenenthal ruled in H4N-NA-C 21, June 26, 1986 (C-06297), that the letter carrier paragraph is an enforceable obligation.

Implementing Memorandum on "Letter Carrier Paragraph." A memorandum of understanding signed December 20, 1988 (M-00884) further explained the requirement to seek to use auxiliary assistance before requiring letter carriers not on the ODL or Work Assignment List to work overtime on their own route on a regularly scheduled day. Management must seek to use all of the following to provide auxiliary assistance:

- *part-time flexibles at the straight-time or regular overtime rate*
- *city carrier assistant employees at the straight-time or regular overtime rate*
- *available full-time regular employees such as unassigned or reserve regulars at the straight-time rate*
- *full-time carriers from the Overtime Desired List at the regular overtime rate*

However, the memo states that management does not have to use ODL carriers to provide auxiliary assistance if such an assignment would mean that the ODL carriers would be working penalty overtime. In that limited situation—if no auxiliary assistance is available without going into penalty overtime—management can require full-time regular carriers not on the Overtime Desired List to work overtime on their own routes on a regularly scheduled day. Remember that this limited exception applies only when a full-time non-ODL letter carrier is required to work overtime on his/her own assignment on a regularly scheduled day.

The assignment of overtime to non-ODL carriers off their assignments or on a non-scheduled day is also discussed on page 8-15:

*Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment, management **must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime** (Article 8.5.D). [Emphasis Added]*

For Work Assignment carriers, the following JCAM language from page 8-22 addresses the assignment of overtime off their assignment or on a non-scheduled day:

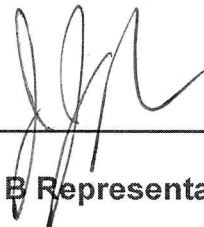
The Work Assignment List was established for full-time letter carriers who only want to work overtime on their own assignment on regularly scheduled days. Signing up for the Work Assignment overtime does not create any entitlement or obligation to work overtime on a non-scheduled day. For purposes of overtime on a non-scheduled day or on other than their own assignment, carriers on the Work Assignment list are treated exactly the same as any other full-time carriers not on the Overtime Desired List—They may only be required to work overtime under the provisions of Article 8.5.D. [Emphasis in Original].

The DRT could not agree to reimburse the steward for the cost of a new printer and ink, since there was no evidence it was necessary for him to purchase those items in order to get copies made. He could have had copies made at that store, instead of buying a printer. The DRT agreed to pay the grievant for two copies of the file at the JCAM (Administrative Support Manual) rate of \$0.15 per page, plus one hour at the overtime rate for travel time to and from the store to have the copies made.

Based on its review of the case file, the DRT 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
USPS Formal Step A Michael Moreno

NALC Branch President
NALC Formal Step A Kevin Welch
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Donald Barrett Award
Union OT Worksheets/Remedy
Employee Moves Report
Hours Analysis Report

Carrier Schedule
ODL
Previous Grievance Settlements
Management Contentions
Formal/Informal A Meeting Request

							PP16 FY2020				De
New		2	\$246.33	PERALES	ALONSO	6676	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$261.08	MAZUCA	ROGER	9471	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$271.99	JOHNSON	SILAS	4046	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$315.65	GONZALES	ERNEST	5355	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$354.00	RODRIGUEZ	RICARDO	0199	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$358.57	GONZALEZ	HECTOR	3098	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$419.05	SAYED	DANISH	7172	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$479.97	ORTA	JOE	8333	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$529.97	MELENDEZ	JULIO	7725	PP16 FY2020	YSZ1BC	10/01/2020		De
New		2	\$784.26	REGALADO	DAVID	0338	PP16 FY2020	YSZ1BC	10/01/2020		De
Total New: \$6,253.01											
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											