



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 2017 5021
Rose Barner	Grievant:	Class
NALC:	Branch Grievance Number:	421
Jim Ruetze	Branch:	421-1454-19
	Installation:	San Antonio
District:	Delivery Unit:	Tejeda
Rio Grande	State:	TX
	Incident Date:	11/29/2019
	Informal Step A Meeting:	12/13/2019
	Formal Step A Meeting:	03/17/2020
	Received at Step B:	03/20/2020
	Step B Decision Date:	04/09/2020
	Issue Code:	08.5450
	NALC Subject Code:	120051

ISSUE:

Did management violate Articles 8.5 and/or 15.3.A of the National Agreement by improperly assigning overtime during the week of November 23–29, 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. All payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

ODL Carriers (remedied at the appropriate overtime/penalty overtime rate(s):

EIN	EMPLOYEE	REMEDY	EIN	EMPLOYEE	REMEDY
03502409	Woodard L	\$31.53	03516200	Esquivel M	\$26.22
03500264	Hernandez N	\$48.05	04202881	Aleman J	\$26.22
02050904	Martinez M	\$30.68	04142256	Trejo E	\$49.23
02106479	Gallardo A	\$29.50	01946280	Cerbantes A	\$78.73
04143102	Garza M	\$85.22	04462174	Ramirez E	\$54.54
03043580	Gutierrez F	\$26.22	04395518	Valenzuela C	\$26.22
02170725	Suarez J	\$26.22	04395429	Mata R	\$84.04
02157092	Mendez C	\$28.58			

Non-ODL and WA carriers (remedied at 50% of the straight time rate):

EIN	EMPLOYEE	REMEDY	EIN	EMPLOYEE	REMEDY
02216377	Bueno, O	\$22.42	02305067	Maya, S	\$31.71
02413352	Williams Jr., C	\$26.85	04057422	Steward, A	\$10.92
03496000	Muniz, L	\$27.14	04319309	Mesquias, J	\$16.08
04048556	San Miguel, J	\$12.39	04339692	Townsend, B	\$13.87

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at Tejada Station in San Antonio, Texas during the week of November 23–29, 2020. During the week cited, management assigned overtime to non-ODL and WA carriers off their assignments while ODL carriers and CCAs 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 the National Agreement when during the week they improperly utilized Work Assignment (WA) carriers and non-Overtime Desired List (ODL) carriers to carry auxiliary assistance off their assigned routes as well as on their own routes and into overtime. The union contended the ODL provided enough overtime carriers to cover any and all vacancies. During the week there were enough hours available between all ODL carriers to provide auxiliary assistance up to the limitations prior to mandating Non ODL and WA. The union contended management recognized a violation but refused to pay non ODL carriers. The union contended management never instructed non ODL carriers to submit PS Forms 3996.

The union requested the ODL carriers be compensated at the appropriate overtime rate for the overtime opportunities they lost as a result of other full-time employees performing that work. Additionally, the union requested the non ODL carriers be awarded wither administrative leave for the times cited by the union, or payment at the 50% straight time rate of pay as they so choose. The union requested a monetary remedy to the union of \$250.00

Management at Formal Step A contended several employees did not request assistance on their own primary routes and therefore should not be paid for the times listed on the week of 11/23 – 25, 2020. Management contended they could not have known these employees would need help on theirs routes to avoid the use of overtime in non-OTDL carriers. Management contended the carrier control sheet used by supervisors throughout the day to write down who called for assistance, vehicle breakdowns, etc. There were no calls for several employees on the days in question. Management contended on 11/29/2020 due to meeting the dispatch of value at 18:00 and the number of open routes, it was necessary to utilize all carriers to deliver the mail to our customers. Management agreed to pay the OTDL the overtime rate; however, had they carried the mail they would have returned after 20:00 and all outgoing mail would have been delayed to the plant. The non-OTDL carriers have been paid once and to pay them again would be punitive and egregious to the USPS.

The DRT reviewed the case file and determined overtime among full-time carriers during the week of 11/23 – 29, 2020 was 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 Mittenthal 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 DRT agreed the Letter Carrier Paragraph would have governed the overtime worked by the non-ODL carriers, but only to the extent management was aware those carriers would require more than 8 hours to complete their assignments. In this case, there were no PS Forms 3996 or other evidence to indicate the non-ODL carriers cited in the union contentions had made management aware they would need overtime.

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

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284
PHONE: 210-368-5477, 210-368-1784; FAX: 210-368-8525

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 agreed overtime worked by any non-ODL carriers where the file did not evidence that management was aware of their need for overtime should not be considered for any payout when exceeding 8 hours. Therefore, the proper adjustment was made in the remedy.

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 Stephanie Olivarez

NALC Branch President
NALC Formal Step A Margaret Garza
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Management Contentions
Union's Overtime Worksheets
Interviews
Buck slip – Remove from OTL List
Prior DRT Decisions
Daily Work Schedule

PS Forms 3996
Carrier Daily Performance Report
Employee Moves Report
Weekly Equitability Report
Informal Step A
Formal Step A
Time Limit Extensions
Request for Steward Time

Payout Request History for Grievance 20175021

[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		2	\$10.92	STEWARD	ALLEN	5130	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$12.39	SAN MIGUEL	JOHN	8349	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$13.87	TOWNSEND	BROCK	5716	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$16.08	MESQUIAS	JOSHUA	0708	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$22.42	BUENO	OSCAR	0859	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.22	SUAREZ	JOE	4291	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.22	GUTIERREZ	FELIPE	9493	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.22	ESQUIVEL	MICHAEL	7494	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.22	ALEMAN	JOSEPH	6311	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.22	VALENZUELA	CHRIS	8860	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$26.85	WILLIAMS	CHRISTOPHER	6533	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$27.14	MUNIZ	LUIS	5558	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$28.58	MENDEZ	CRESCENT	0561	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$29.50	GALLARDO	ALFRED	1428	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$30.68	MARTINEZ	MARK	7083	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$31.53	WOODARD	LOLITA	8701		YSZ1BC	04/10/2020

							PP3 FY2020		
New		2	\$31.71	MAYA	SHELVIA	7618	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$48.05	HERNANDEZ	NICK	4865	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$49.23	TREJO	EDWARD	6523	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$54.54	RAMIREZ	EDGAR	9318	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$78.73	CERBANTES	ANGELA	0244	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$84.04	MATA	REGINALDO	8816	PP3 FY2020	YSZ1BC	04/10/2020
New		2	\$85.22	GARZA	MARGARET	4733	PP3 FY2020	YSZ1BC	04/10/2020
Total New: \$812.58									
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											