

STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 2038 3418
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421
Jim Ruetze	Branch:	421-432-20
	Installation:	San Antonio
District:	Delivery Unit:	Frank Tejada Station
Rio Grande	State:	TX
	Incident Date:	03/28/2020-04/03/2020
	Informal Step A Meeting:	06/16/2020
	Formal Step A Meeting:	08/04/2020
	Received at Step B:	09/04/2020
	Step B Decision Date:	09/24/2020
	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 March 28 – April 3, 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. All payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

EIN	EMPLOYEE	REMEDY	EIN	EMPLOYEE	REMEDY
01995567	Ramirez, G	\$135.11	04307735	Castaneda, F	\$98.83
03496000	Muniz, L	\$71.69	04018097	Ramirez, DG	\$44.25
04347158	Escobar, L	\$33.63	04339692	Townsend, B	\$61.95
04619477	Vazquez, C	\$39.24	04249339	Perez, F	\$65.05
04048556	San Miguel, J	\$114.76	02437072	Peralta, A	\$122.43
03500264	Hernandez, N	\$114.31			

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at Frank Tejada Station, San Antonio, Texas during the week of March 28 – April 3, 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 March 28 – April 3, 2020 prior to fully utilizing the ODL and City Carrier Assistants (CCAs).

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.

Management at Formal Step A contended Carrier Ho has multiple days of overtime (March 28, April 1 and 2) but did not submit a PS form 3996 for the days listed. On March 30 Carrier San Miguel was listed using 2 hours of overtime although he is on the overtime desired list as shown on the ODL. Management contended on April 1 and 2 Carrier Ramirez utilized unauthorized overtime. Management stated no matter what day or how much volume Ramirez has he still uses unauthorized overtime. Ramirez has been given street assistance and utilized overtime; no assistance and uses overtime. Management asserts each day he uses at least an hour of overtime even with volumes as low as 750 pieces of mail for the entire route. Ramirez performance has been addressed and 3999 will be conducted once emergency order is lifted.

The DRT reviewed the case file and determined there was a violation of Article 8.5 for the week of March 28 – April 3, 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 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 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]*

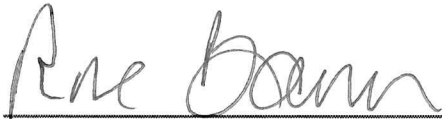
For Work Assignment carriers, the following JCAM language from page 8-22 addresses the assignment of overtime off their assignment or on a non-scheduled day:

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 agreed Carrier San Miguel had gotten off the ODL for the last few days of the first quarter, then got on the ODL for the second quarter, which began on Wednesday of the week in question. Thus, San Miguel was an 8-hour carrier for Saturday through Tuesday, then became a 12-hour ODL carrier Wednesday through Friday.

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 Ralph Rodriguez
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Management Contentions
Carrier Schedule
Overtime Alert Report
Employee Moves Report

Employee Everything Report
ODL
Carrier Daily Analysis Report
JCAM Excerpts
Request for Informal Step A Meeting
Request for Formal Step A Meeting

Payout Request History for Grievance 20383418

[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	\$33.63	ESCOBAR	LISA	4787	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$39.24	VASQUEZ	CRYSTAL	0186	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$44.25	RAMIREZ	DIANA	1759	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$61.95	TOWNSEND	BROCK	5716	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$65.05	PEREZ	FELIX	0632	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$71.69	MUNIZ	LUIS	5558	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$98.83	CASTANEDA	FELIPE	5933	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$114.31	HERNANDEZ	NICK	4865	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$114.76	SAN MIGUEL	JOHN	8349	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$122.43	PERALTA	ARMANDO	0208	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
New		1	\$135.11	RAMIREZ	GILBERT	9119	PP8 FY2020	YSZ1BC	09/25/2020	<input type="button" value="D"/>
Total New: \$901.25										
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