

RESOLVE



STEP B DECISION

Step B Team:

USPS:

Rose Barner

NALC:

Jose Portales

Grieving District:

Rio Grande

Decision:

USPS Number:

Grievant:

Branch Grievance Number:

Branch:

Installation:

Delivery Unit:

State:

Incident Date:

Informal Step A Initiated:

Formal Step A Meeting:

Received at Step B:

Step B Decision Date:

Issue Code:

NALC Subject Code:

RESOLVE

G16N-4G-C 2025 8202

Class

421-539-20

421

San Antonio

Beacon Hill

Texas

05/08/2020

05/20/2020

05/28/2020

06/02/2020

06/11/2020

8.4100

100277

ISSUE:

Did management violate Article 8.4 and Handbook EL-401, Supervisor's Guide to Scheduling and Premium Pay, via Article 19 of the National Agreement (NA) when they failed to pay the station out of schedule premium on 05/08/2020? 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 8.4 of the NA. The full-time carriers' schedules that were changed during the time period covered in this grievance should have been paid premiums consistent with Article 8 of the NA. The carriers in the table below are compensated in the amounts by their names. See the DRT Explanation below.

EIN	Carrier	Remedy	EIN	Carrier	Remedy
01998691	Melendez, J	\$11.06	01966651	Matthies, K	\$11.06
02176046	Roller, J	\$11.06	02152054	Regalado, D	\$33.19
02380911	Childs, M	\$11.06	02386896	Ketchum, L	\$11.06
04618971	Olivas, D	\$11.06	03324042	Johnson, D	\$33.19
02192055	Saucedo, Y	\$11.06	02439335	Gilbert, G	\$11.06
03532392	Gonzalez, H	\$11.06	04466169	Castaneda, J	\$11.06
04298245	Venegas, E	\$11.06	03366084	Hidalgo, R	\$33.19
01988799	Rodriguez, R	\$11.06	04449050	Miles, C	\$11.06
03493112	Cruz, J	\$11.06	04619804	Hall, M	\$11.06
04491164	Moreno, J	\$11.06	03509712	Macias, R	\$11.06
02148756	Zapata, J	\$11.06	02076142	Orta, J	\$11.06
03110662	Rodriguez, G	\$11.06	02114220	Zander, D	\$11.06
03415922	Welch, K	\$11.06	01949924	Reyes, R	\$11.06
03515425	Rohrbeck, M	\$11.06	04717156	Lopez, M	\$11.06
04406983	Williams Jr., G	\$11.06	04339668	Montalvo, A	\$11.06

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284-9608
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

EXPLANATION:

The carriers at Beacon Hill Station were notified of a schedule time change from 6:75 to 7:30. The union filed this grievance to challenge management's failure to pay out of schedule premium for the day in question. Unable to achieve a resolution through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends on 05/02/2020 management notified the station that all carriers' reporting times would be temporarily changed from 6:75 AM to 7:30 AM starting on 05/04/2020. The union contends as argued at the Formal Step A management has the right to temporarily change start times but they must pay the carriers out of schedule premium during that time.

The union requests management cease and desist violating Article 8.4 of the NA and pay out of schedule pay when required. The union also requests the carriers affected get out of schedule pay for 0.75 (45 minutes) on 05/14/2020.

Management contends the carriers were properly notified their schedule would change. Management contends carriers were notified via standup talks starting on 04/27/2020 through 05/02/2020. Management contends the schedule was posted on 04/29/2020 with the changes.

The DRT reviewed the case file and determined the file evidenced carriers started at 7:30 AM on 05/14/2020. The file contained Employee Everything Reports showing full-time carriers with start times of 06:75 AM prior to 05/14/2020. Management did not contend this was a permanent schedule change and provided no rebuttal to the union's contention this was a temporary schedule. The work schedule included in the file reflects no start times for full-time carriers. The work schedule reflects an 8:00 AM start time for city carrier assistants (CCAs). The JCAM provides the following relevant guidance on this issue:

***Out-of-Schedule Premium.** Article 8.4.B refers to the out-of-schedule premium provisions contained in the ELM Section 434.6. They provide that out-of-schedule premium is paid at the postal overtime rate to eligible full-time bargaining unit employees for time worked outside of, and instead of, their regularly scheduled workday or workweek when employees work on a temporary schedule at the request of management.*

Only full-time regular and full-time flexible letter carriers may receive out-of-schedule pay. However, this rule does not preclude part-time employees from receiving a monetary remedy for contractual scheduling violations when warranted by fact circumstances (e.g. violations of Article 41.2.B.4). A full-time flexible employee's "regular" schedule for the purpose of this provision is the schedule established on the preceding Wednesday (Article 7).

An employee does not receive out-of-schedule pay when his or her schedule is changed to provide limited or light duty (National Arbitrator Gamser, N8-NA-0003, March 12, 1980, C-03212), when the employee is attending a recognized training session, or when the employee is allowed to make up time due to tardiness in reporting for duty (ELM Section 434.622).

Note also that letter carriers who fill temporarily vacant Carrier Technician positions under the provisions of Article 25 assume the hours of the vacancy as provided by

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the prearbitration settlement H8N-3P-C 32705, January 27, 1982, (M-00431), which states:

Details of anticipated duration of one week (five working days within seven calendar days) or longer to temporarily vacant Carrier Technician positions shall be filled per Article 25, 1981 National Agreement. When such temporary details involve a schedule change for the detailed employee, that employee will assume the hours of the vacancy without obligation to the employer for out-of-schedule overtime.

Rules for Out-of-Schedule Premium. *In the letter carrier craft the out-of- schedule premium provisions are applicable only in cases where management has given advance notice of the change of schedule by Wednesday of the preceding service week. In all other cases a full-time employee is entitled to work the hours of his or her regular schedule or receive pay in lieu thereof and the regular overtime rules apply—not the out-of-schedule premium rules. (Emphasis in original)*

- *If notice of a temporary change is given to a full-time employee by Wednesday of the preceding service week, even if this change is revised later, management has the right to limit the employee's work hours to the hours of the revised schedule and out-of-schedule premium is paid for those hours worked outside of, and instead of, his or her regular schedule.*

- *If notice of a temporary schedule change is not given to a full-time employee by Wednesday of the preceding service week, the employee is entitled to work her or his regular schedule and the out-of-schedule provisions do not apply. In this case any hours worked in addition to the employee's regular schedule are not considered out-of-schedule premium hours. Instead, they are paid as overtime hours worked in excess of 8 hours per service day or 40 hours per service week.*

Out-of-schedule premium hours cannot exceed the unworked portion of the full-time employee's regular schedule. If employees work their full regular schedule, then any additional hours worked are not instead of their regular schedule and are not considered as out-of-schedule premium hours. Any hours worked which result in paid hours in excess of 8 hours per service day or 40 hours per service week are paid at the overtime rate.

Handbook F-401, on pages 9-11, provides the following explanation and examples to clarify the appropriate payment and/or leave entries form temporary out of schedule:

D. Out-of-Schedule Premium

1) Definition: Out-of-schedule premium is paid to eligible full-time bargaining unit employees for time worked outside of, and instead of, their regularly scheduled workday or workweek when employees work on a temporary schedule at the request of management. (See ELM 434.611.)

2) Notification Requirement: If notice of a temporary change is given to an employee by Wednesday of the preceding service week, even if this change is revised later, the employee's time can be limited to the hours of the revised schedule and out-of-schedule premium is paid for those hours worked outside of, and instead of, his or her regular schedule. (See ELM 434.612a.)

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3) Noncompliance with the Notification Requirement:

If notice of a temporary schedule change is *not* given to the employee by Wednesday of the preceding service week, the employee is entitled to work his or her regular schedule. Therefore, any hours worked in addition to the employee's regular schedule are not worked "instead of" his or her regular schedule. Such additional hours worked are not considered as out-of-schedule premium hours. Instead, they are paid as overtime hours worked in excess of 8 hours per service day or 40 hours per service week. (See ELM 434.612b.)

Example: A supervisor plans ahead and notifies an employee by the Wednesday of the preceding service week to work a temporary schedule the following service week from 0600 to 1450, instead of his or her regular schedule from 0800 to 1650. The employee is paid 2 hours out-of-schedule premium for the hours worked from 0600 to 0800 and 6 hours straight time for the hours worked from 0800 to 1450. (See ELM 434.615.)

If the same situation occurred, except that the notification requirement was not met, the time between 0600 and 0800 is postal overtime, and the time between 0800 and 1650 (the regular schedule) is payable as straight time. If the employee was sent home at 1450, he or she must be paid for the 2 hours between 0600 and 0800 at the overtime rate, straight time for the period from 0800 to 1450, and 2 hours administrative leave for the period from 1450 to 1650.

The team agrees to the decision and remedy above.



Rose Barner
USPS Step B Representative



Jose Portales
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 A: Michael R. Moreno

NALC Branch President
NALC Formal Step A: Rigoberto Hidalgo
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions (5 pages)
Schedule (2 pages)
EER (43 pages)

Carrier Statements (13 pages)
Request for Informal Step A
Request for Formal Step A
Management Contentions

Payout Request History for Grievance 20258202

[HELP](#)

no data

Not Processed By Payroll

- ☒ New (Not yet sent to Payroll)
- ☒ Pending (Not back from Payroll)
- ☒ Submitted (Received acknowledgment from Payroll, awaiting processing)

Payroll Processed

- ☒ Paid (Back from Payroll without error)
- ☒ Payroll Error (Back from Payroll with error)

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Show History

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	\$11.06	ZAPATA	JOSEPH	5528	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	KETCHUM	LESLEY	9276	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	GILBERT	GLENN	9639	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	MELENDEZ	JULIO	7725	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	RODRIGUEZ	RENE	2960	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	REYES	RAUL	0743	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	SAUCEDO	YOLANDA	9523	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	WELCH	KEVIN	0596	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	MATTHIES	KEVIN	8828	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	RODRIGUEZ	GUILLERMO	4620	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	ROLLER	JEFFREY	6108	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	ORTA	JOE	8333	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	ZANDER	DARRYL	0306	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	CRUZ	JUAN	1365	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	MACIAS	ROGELIO	0298	PP10 FY2020	YSZ1BC	06/15/2020	
New		2	\$11.06	CHILDS	MARY	1543		YSZ1BC	06/15/2020	

							PP10 FY2020		
New		2	\$11.06	ROHRBECK	MATTHEW	3249	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	GONZALEZ	HECTOR	3098	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	VENEGAS	EMILIO	2177	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	MONTALVO	AMANDA	7067	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	WILLIAMS	GEORGE	5945	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	MILES	CHAD	4699	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	CASTANEDA	JAIR	7233	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	MORENO LOZANO	JOSE	1693	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	OLIVAS	DANIEL	5744	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	HALL	MARC	8736	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$11.06	LOPEZ	MONICA	1384	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$33.19	REGALADO	DAVID	0338	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$33.19	JOHNSON	DELANO	8715	PP10 FY2020	YSZ1BC	06/15/2020
New		2	\$33.19	HIDALGO	RIGOBERTO	4751	PP10 FY2020	YSZ1BC	06/15/2020
Total New: \$398.19									
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											