



RESOLVE



### STEP B DECISION

**Step B Team:**

USPS:

**Alex Zamora**

NALC:

**Jim Ruetze**

District:

**Rio Grande**

USPS Formal A:

**Arnold Pena Jr.**

NALC Formal A:

**Carmicheal Lewis**

Decision:

USPS Number:

Grievant:

Branch Grievance Number:

Branch:

Installation:

Delivery Unit:

State:

Incident Date:

Informal Step A Meeting:

Formal Step A Meeting:

Received at Step B:

Step B Decision Date:

Issue Code:

NALC Subject Code:

**RESOLVE**

**G16N-4G-C 1765 8515**

**Andre Whittaker**

**421-1044-17**

**421**

**San Antonio**

**JF Dobie**

**TX**

**09/21/2017**

**10/05/2017**

**10/18/2017**

**10/23/2017**

**11/22/2017**

**13.2600**

**507501**

**ISSUE:**

Did management violate Article 13 and/or 30 of the National Agreement by failing to give the greatest consideration possible to the grievant's light duty request? If so, what is the remedy?

**DECISION:**

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced violations of Articles 13 and 30 when management failed to consult with the branch president or his designee prior to denying the grievant's request and when someone other than the installation head made the decision to deny light duty. The grievant shall be made whole for LWOP charged during the period when he was available for light duty after the date of his request, up to a maximum of three weeks (120 hours). The Formal Step A parties will meet within 14 days of receipt of this decision to determine the make-whole period. The management Formal Step A representative will convert the improperly charged LWOP to "Other Paid Leave" (Code 086) within seven (7) days of the parties' agreement on the make-whole period. Additionally, the steward is compensated \$18.75 for processing this grievance off the clock. The payment to the steward has been processed at Step B. See the DRT Explanation below.

**EXPLANATION:**

The grievant in this case is Andre Whittaker, a full time regular carrier assigned to J.F. Dobie Station in San Antonio, TX with seniority dating to 04/18/2016. On 08/23/2017 the grievant submitted a request for light duty following an injury to his arm. By letter dated 08/30/2017 a management official named "Rene Benavidez" denied the request. The reason given was, "[B]ased on your current restrictions, there is no Light Duty available at this time."

The union filed this grievance to protest management's failure to comply with the requirements in the LMOU and in Article 13 of the National Agreement prior to deciding there was no work available. 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 the installation head was not involved in the decision to deny light duty. The union also contends the branch president was not consulted to attempt to identify available light duty. The union contends the grievant could have, among other things, cased mail using his other hand and answered phones.

The union requests the grievant be made whole for 120 hours of LWOP he was charged while sitting at home until he could return to duty. Additionally, the union requests that the steward be paid for three hours at the overtime rate for processing this grievance off the clock.

**Management** contends the grievant was in a cast and could not hold mail in his hand.

**The DRT** reviewed the case file and determined management violated Articles 13 and 30 (via the San Antonio LMOU) by failing to consult the branch president to attempt to identify available light duty work. Additionally, the installation head did not appear to have anything at all to do with the request. The DRT agreed the National Agreement requires the installation head to be the one to make the decision concerning light duty. Although the LMOU permits a designee to consult with the branch president (or his designee) and to actually make the assignment if it is to another facility, the approval or denial itself must be made by the installation head. If the request is refused, the *installation head* must inform the grievant in writing. The National Agreement does not provide for a designee for showing the greatest consideration for light duty requests or for notifying the employee in writing if the request is refused. Article 13.2.C and the accompanying explanation appear on page 13-4 of the JCAM:

**13.2.C. Installation heads shall show the greatest consideration** for fulltime regular or part-time flexible employees requiring light duty or other assignments, giving each request careful attention, and reassign such employees **to the extent possible** in the employee's office. When a request is refused, the **installation head** shall notify the concerned employee in writing, stating the reasons for the inability to reassign the employee.

Article 13.2.C requires that **installation heads** make a bona fide effort to identify light duty work. It further requires management to give the matter "the greatest consideration" and "careful attention." If management does not provide the requested light duty work, it has an obligation to explain in writing why light duty work is unavailable. Disputes concerning the failure to provide light duty work may be addressed through the grievance arbitration procedure.

The San Antonio LMOU includes the following:

**ARTICLE 13  
ASSIGNMENT OF ILL OR INJURED  
REGULAR WORKFORCE EMPLOYEES**

**SECTION 1**

In accommodation of temporary or permanent light duty assignments for the Letter Carrier Craft, the Installation Head/Designee **shall consult with the Branch President**, or his/her designee. (1991) (Emphasis Added)

**SECTION 2**

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

*Every effort shall be made to reassign the concerned employee within his/her present craft or occupational group, even if such assignment reduces the number of hours of work for the supplemental work force. After all efforts are exhausted in this area, the Installation Head/Designee has the authority to assign light duty within other crafts, in accordance with Article 13, of the National Agreement. (1991)*

The steward requested three hours to process this grievance, and according to the request form, no time was granted. The steward claimed he used three hours to process the grievance, but failed to provide any sort of accounting for what he did during that time. The DRT agreed it must have taken some time to process the grievance, so we agreed to pay the steward \$18.75. Based on its review of the case file, the DRT mutually agreed to the decision and remedy above.

  
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**Alex Zamora**  
**USPS Step B Representative**

  
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**Jim Ruetze**  
**NALC Step B Representative**

**cc:**

LR Manager, SW Area  
NALC Region 10 NBA  
Rio Grande District HR Manager  
Rio Grande District LR Manager  
Management Formal Step A Designee

NALC Branch President  
NALC Formal Step A Designee  
Manager, Rio Grande District  
Postmaster, San Antonio, Texas  
DRT File

**Grievance File Contents**

PS Form 8190  
Request for Information  
Union Contentions  
Request for Formal Step A Meeting  
Medical Documentation  
Grievant's Request for Light Duty  
Denial of Light Duty Request

Work Status Report for Other Carrier  
Denial of Interview of PM Carr  
Prior Step B Decision  
LMOU Excerpt  
Management Contentions  
Supervisor Statement

## Payout Request History for Grievance

### 17658515

[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	\$18.75	WHITTAKER	ANDRE	9320	PP20 FY2017	KBY9N0	11/22/2017	<a href="#">Details</a>
Total New: \$18.75										
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											