



STEP B DECISION

Step B Team:	Decision:	<u>RESOLVE</u>
USPS:	USPS Number:	G11N-4G-C 1754 7371
Alex Zamora	Grievant:	M. Ortega
NALC:	Branch Grievance Number:	421-664-17
Karrie Kimbrell	Branch:	421
	Installation:	San Antonio
Deciding District:	Delivery Unit:	Hackberry
Rio Grande	State:	Texas
	Incident Date:	07/01/2017
	Informal Step A Initiated:	07/07/2017
	Formal Step A Meeting:	No meeting
USPS Formal A:	Date Received at Step B:	07/26/2017
Stephanie Olivares	Step B Decision Date:	08/03/2017
NALC Formal A:	Issue Code:	65.2100
Richard Gould	NALC Subject Code:	600139



ISSUE:

Did management violate Article 19 of the National Agreement via the Handbooks EL-801, ELM 821 as well as 18 U.S.C. § 1001 of the federal code by reporting inaccurate information on a PS Form 1769/301, Accident Report? 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. The PS Form 1769 at issue in this case will be changed to reflect accurate information. Specifically, boxes 35 and 36 of the PS Form 1769 will show a similar conclusion as reported on the CA-1, that the grievant's injury was not caused by the employee's willful disregard for instructions or unsafe practices as neither condition was proven. See DRT explanation.

EXPLANATION:

The issue in this case concerns the allegation that management did not annotate accurate information on PS Form 1769 following an injury incurred by the grievant.

The union contends the grievant sustained a traumatic injury on 03/23/17, when she injured her foot while performing her duties. On 03/31/17, management conducted an investigative interview during which the grievant made it very clear that she was working safely when she incurred the injury. Management never issued the grievant discipline and notated on the CA-1 Box 29 that the injury was not caused by the employee's willful misconduct.

On 06/29/17, the union requested documentation regarding a possible violation of Article 13 (Light Duty) (See attached information request). One of the documents requested was the Accident Report. When the information was provided on 07/01/17 the union discovered the PS Form 1769, boxes 35 and 36 reflected inaccurate information regarding the incident that caused Mrs. Ortega to be injured.

The union filed a grievance contending that management was falsifying these documents by inserting information that did not reflect the truth in accordance with the grievant's statement of facts and the lack of any investigation by management.

The union contends that management violated Article 19 of the National Agreement via the ELM 821 and/or the EL-801 as well as 18 U.S.C. §1001 of the Federal Code when management reported inaccurate information on lines 35 and 36 of the PS Form 1769/301 Accident Report.

Management never offered any proof that the grievant willfully disregarded any instructions, had any unsafe personal factors, or performed any unsafe practices. The grievant denied this during the investigative interview and management agreed that she did nothing unsafe when they filled out their portion of the CA-1. Management falsely stated that the grievant willfully disregarded an instruction and/or had some other unsafe personal factor when they annotated box 35 (Unsafe Personal Factors), and box 36 (Unsafe Practices) as other unsafe practices. Management presented no proof of either one. On the contrary, the grievant explained very convincingly that she worked in a safe manner.

The union requests management cease and desist violating violate Article 19 of the National Agreement via the ELM 821 and/or the EL-801 as well as 18 U.S.C. §1001 of the Federal Code when management reported inaccurate information on the PS Form 1769/301 Accident Report and also requests an instruction for management to correct the PS Form 1769/301 Accident Report to accurately reflect that the grievant was not found to be working unsafely.

Management did not meet at the Formal Step A level and did not provide any contentions.

The DRT determined a violation was evidenced in this case. Shown below is relevant contract and handbook/manual language.

Article 19 pertains to those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by the National Agreement:

Handbooks and Manuals. Article 19 provides that those postal handbook and manual provisions directly relating to wages, hours, or working conditions are enforceable as though they were part of the National Agreement.

The Employee and Labor Relations Manual (ELM) Section 821.13 explains the requirements when using the PS Form 1769:

821.13 Reporting Using PS Form 1769

821.131 Completing PS Form 1769

The manager or supervisor of the employee or operation reports all accidents and occupational injuries and illnesses on PS Form 1769 within 24 hours, using the "Narrative" block to record the employee's home address and the full circumstances of the accident (the "who, what, when, where, why, and how" that explain the cause of injury or illness). Managers and supervisors of the employee or operation are responsible for investigating all accidents and occupational injuries and illnesses quickly and accurately to determine root causes, and they are responsible for completing PS Form 1769.

821.132 Reviewing PS Form 1769

Review is conducted as follows:

a. The supervisor's immediate manager must review each PS Form 1769 for accuracy and its application (including OSHA recording status), follow up to ensure that action is taken to prevent similar occurrences, and endorse the report (in item 57).

Section 821.2 explains management's responsibility to investigate promptly and record them accurately:

821.2 Accident Investigation

821.21 Responsibility

Managers and supervisors are responsible for investigating all accidents promptly, determining their causes, and reporting them accurately in accordance with OSHA and Postal Service regulations. Management should consult with safety personnel when accident causes cannot be readily determined.

The EL 801 is the Supervisors Safety Handbook. Section 2-3 outlines managements instructions regarding preparing the accident report:

Preparing the Accident Report

2-3.1 Completing PS Form 1769, Accident Report

The employee's immediate supervisor must complete PS Form 1769, Accident Report, within 24 hours of notification of an accident. First complete the written narrative on the right side, then complete the left side by using numerical codes.

As the supervisor filling out the form, you must use the code that most closely describes the circumstances of the accident. If you can't find the appropriate code, you must include a narrative description of the circumstances.

In your narrative statement, describe as clearly as possible the events that occurred during the accident sequence. Be as detailed as possible, keeping in mind that your narrative needs to provide upper management and safety personnel a clear understanding of the circumstances of the accident. If Postal Service equipment was involved or caused the accident, identify the type, model, serial number, vehicle number, and other identifying information for the equipment.

2-3.2 Submitting the Accident Report

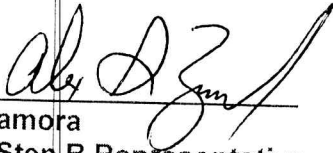
You must submit PS Form 1769 to the servicing safety office within 3 calendar days of the accident. Follow submission procedures explained in the General Instructions of PS Form 1769.

Note: The supervisor at the level directly above you must review and sign PS Form 1769 to vouch for its accuracy. If the form is missing data or is not properly completed, the approving supervisor will return it to you for correction before signing it.

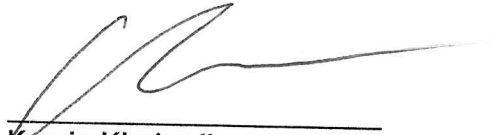
Federal Code 18 U.S.C. § 100 states the following:

"Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully— (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both."

Based on the undisputed facts contained in the file, the DRT mutually agreed to the decision shown on page one.



Alex Zamora
USPS Step B Representative



Karrie Kimbrell
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Union Contentions
CA-1
PS Form 1769

Investigative Interview
Informal Step A Request
USPS Tracking
Formal Step A Request

cc: **Area Manager of Labor Relations, Southern Area**
NALC NBA, Region 10
District Manager, Rio Grande District
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File