



**STEP B DECISION**

<b>Step B Team:</b>	Decision:	<b><u>RESOLVE</u></b>
USPS:	USPS Number:	<b>G11N-4G-C 1753 7926</b>
<b>Alex Zamora</b>	Grievant:	<b>Tim Paz</b>
NALC:	Branch Grievance Number:	<b>421-627-17</b>
<b>Karrie Kimbrell</b>	Branch:	<b>421</b>
	Installation:	<b>San Antonio</b>
District:	Delivery Unit:	<b>Dobie</b>
<b>Rio Grande</b>	State:	<b>TX</b>
	Incident Date:	<b>Ongoing</b>
	Informal Step A Meeting:	<b>06/22/2017</b>
	Formal Step A Meeting:	<b>07/18/2017</b>
USPS Formal A:	Received at Step B	<b>07/19/2017</b>
<b>John Mendiola</b>	Step B Decision Date:	<b>07/20/2017</b>
NALC Formal A:	Issue Code:	<b>27.2300</b>
<b>Homer Hernandez</b>	NALC Subject Code:	<b>504002</b>

**ISSUE:**

Did management violate Articles 14, 15, 20 and 27 of the National Agreement by not fulfilling the obligation to safety, security and parking of all personal vehicles? If so, what is the remedy?

**DECISION:**

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management is responsible for maintaining the parking lot and for providing a safe environment for employees. PS Forms 1767 should be addressed in the manner as described on the form. A monetary remedy was not agreed upon for the employee since the proper forum for that issue to be addressed is through the Federal Tort Claims Act. See the DRT Explanation below.

**EXPLANATION:**

The grievant identified by the union in this case is Tim Paz. The grievant states his vehicle was damaged while on postal property on 05/25/2017. A PS Form 1767 was previously submitted to management concerning the condition of the parking lot. Pictures provided showed a parking lot overgrown with trees in the area employees are to park their personal vehicles.

**The union** contends PS Form 1767 was submitted to management in April 2017 due to the trees in the parking lot needing to be cut and cleaned up. No response was given until June 2017 when the steward was told the station had received \$2500 to get the trees cleaned up. As of the appeal of this grievance, the trees still had not been cleaned up. The union believes if the parking lot had been cleaned up, the accident that caused damage to the grievant's car would not have happened.

The union contends there is not enough room for personal parking and postal vehicles. More room can be utilized by expanding the parking lot. The negligence on management's part needs to be considered immediately. The union requests as remedy that the grievant be paid \$1349.00 to fix his damaged vehicle and that the postmaster send a safety team to review and expand the station's parking lot to make it a safe environment for all carriers to work.

**Management** contends the alleged incident occurred on 05/25/2017. The grievant brought it to management's attention after the fact. He claimed it occurred on postal property; however there were no vehicles that had paint or scratches on them that were in the general vicinity of where he had parked. The grievant drives a 2011 Dodge truck. He filed a police report on 05/25/2017, at his place of residence. The Postal Service is not liable for this incident. It cannot be proven that it occurred on postal property.

The DRT determined the file evidenced a violation of some issues as stated but not of all issues. The union presented several complaints concerning management's actions in this case. The DRT will address each concern. The union stated a PS Form 1767 was submitted to management in April 2017 with no response until June 2017; a copy of that form was not provided for the file. Management did not dispute the reference to this form. The DRT reminds management of the obligation to follow the directions as indicated on PS Forms 1767 which state:

## **INSTRUCTIONS**

### **I. EMPLOYEE (Print, sign, and date.)**

- a. Complete section I. and file it with your immediate supervisor.
- b. If you desire anonymity, complete section I. (including your name) and file the report with the Safety Office. Safety personnel will immediately return the form to your supervisor for necessary action, and will delete your name from the form to ensure your anonymity.

### **II. SUPERVISOR (Print, sign, and date.)**

- a. Investigate the alleged hazard during the same tour of duty in which the report was received.
- b. Abate the hazard if it is within the scope of your authority to do so.
- c. Record the action taken to eliminate the hazard or record recommendation for corrective action in section II. and sign your name.
- d. Forward the original and yellow copy to your immediate supervisor (approving official); send the pink copy to the Safety Office; and give the employee the remaining blue copy as a receipt. It is your responsibility to monitor the status of the report, at all times, until the hazard is abated.

### **III. APPROVING OFFICIAL (Print, sign, and date.)**

- a. Initiate action to eliminate or minimize the hazard. If this results in the submission of a work order, attach the original of this form, and forward through channels, to the manager, Plant Maintenance.

*b. If you determine that there are no reasonable grounds to believe a hazard exists, notify the employee in writing within 15 calendar days. Safety personnel will assist you in this determination when requested.*

*c. If the hazard was abated by the first line supervisor or when it has been abated through your actions, notify the employee in writing, and send the original of this form to the Safety Office.*

**IV. MAINTENANCE SUPERVISOR (Print, sign, and date.)**

*When the work order has been completed, sign, date, and return the original of this form to the approving official who will then forward it to the Safety Office.*

Article 14, Safety and Health states:

**14.1 Section 1. Responsibilities**

*It is the responsibility of management to provide safe working conditions in all present and future installations and to develop a safe working force.*

**14.2 Section 2. Cooperation**

*The Employer and the Union insist on the observance of safe rules and safe procedures by employees and insist on correction of unsafe conditions.*

Article 20, Parking states:

**20.3 Section 3. Labor-Management Committee**

*Parking is a proper subject for discussion at local Labor-Management Committee meetings. The location of new, additional, or improved parking facilities; the number of parking spaces; security and lighting in the parking areas as well as similar subjects are proper agenda items for such meetings. The local Labor-Management Committee may make recommendations to the installation head concerning such subjects.*

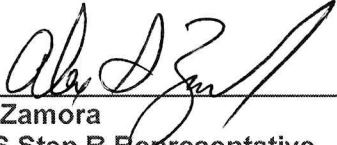
Article 27, Employee Claims states:

**Summary.** *A letter carrier whose personal property is lost or damaged at work may file a claim for reimbursement with the Postal Service. Article 27 sets forth the rules for such "employee claims:"*

**2. Automobile Exclusion.** *Privately owned motor vehicles and their contents are excluded from Article 27 claims. However, if a letter carrier's automobile is damaged by "the negligent or wrongful act" of the Postal Service, the carrier may seek recovery under the Federal Tort Claims Act. To initiate a Tort Claim a carrier should complete and submit a Form 95. Note that the standard for establishing liability under the Tort Claims Act is different than the standard for reimbursement under Article 27, because they treat fault differently. The Postal Service must pay a claim under Article 27 unless it was "caused in whole or in part by the negligent or wrongful act of the employee"—whether or not there was also negligence on the part of the Postal Service. However, to recover under the Tort Claims procedure the employee must establish that the damage was the fault of the Postal Service.*

The file contained a copy of Form 95 that has presumably been submitted to the proper authority. No mention was made as to the adjudication of the claim beyond the union stating

it had yet to be addressed at the time of the appeal. The National Agreement excludes automobiles from being covered under Article 27. The grievant is encouraged to continue his efforts in claiming restitution through that process.



Alex Zamora  
USPS Step B Representative



Karrie Kimbrell  
NALC Step B Representative

**Grievance File Contents**

PS Form 8190  
Management Contentions  
Table of Contents  
Informal Step A Request  
Formal Step A Request  
Moratorium Request  
Union Contentions (3 pgs)  
Witness Statement (2 pgs)

Copies of Pictures (17 pgs)  
TXDoT Accident Report (4 pgs)  
PS Form 1767  
Form 95 (2 pgs)  
Grievant Statement  
Info on Tort Claims (2 pgs)  
Repair Estimates (5 pgs)