



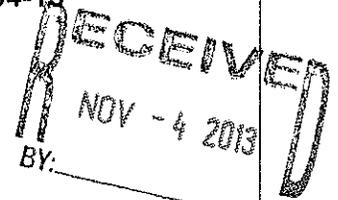
STEP B DECISION

Step B Team:
USPS: **Jennifer Lewis**
NALC: **Mark L. Malone**

District:
Rio Grande

Step A Reps:
USPS: **E Jaramillo**
NALC: **T Boyd**

Decision: **RESOLVE**
USPS Number: **G11N-4G-C 1333 0664**
Grievant: **Class Action**
Branch Grievance Number: **421-704-13**
NALC Branch #: **421**
Installation: **San Antonio**
Delivery Unit: **Citywide**
State: **Texas**
Incident date: **08/07/2013**
Date Informal Step A: **08/21/2013**
Formal Step A Meeting Date: **09/06/2013**
Date Received at Step B: **09/16/2013** (Aus 10/16/2013)
Step B Decision Date: **11/01/2013**
Issue Code: **17.3400**
NALC subject code: **100400**
Original Step B Received Date: **09/16/2013**
Date Sent to Assisting Team: **10/15/2013**



TIME LIMITS AT STEP B EXTENDED BY MUTUAL AGREEMENT

ISSUE: Was there a violation of Article 17 of the National Agreement when the alternate steward was temporarily detailed to another delivery unit? If so, what is an appropriate remedy?

DECISION: The dispute resolution team mutually agreed to resolve this grievance. Management violated Article 17.3 when Mr. Eric Cordova was temporarily reassigned while he was acting as steward in the absence of the regular steward. **Management is directed to comply with the superseniority provisions of Article 17.3.**

EXPLANATION:

The union contends on August 7, 2013, Eric Cordova was instructed by Supervisor Mark Hinds to report to Laurel Heights Station instead of reporting to work at North Broadway as scheduled. Mr. Cordova was the steward at the time for North Broadway because the actual steward was on annual leave that week. When questioned, Supervisor Hinds stated he moved Cordova per instructions of the area manager. When the area manager was informed Mr. Cordova was the station steward he responded that he was going to do it away. The union states that the schedule was made out previously for that date and Mr. Cordova was also scheduled that same day to perform steward duties at North Broadway. That in and of itself, ends all discussion on whether or not Mr. Cordova has superseniority rights. He clearly did. The fact that Mr. Cordova is a CCA is immaterial. Article 17.3 bars both temporary and permanent reassignments of stewards and that the prohibition applies even if there are no vacant job assignments. Superseniority rights must be observed even if it requires an involuntary transfer of another, more senior carrier. As remedy the union requests that management 'cease and desist' violating Article 17.3 and 17.4, specifically moving an individual to another office on a day he or she is performing steward duties.

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Management contends North Broadway Station is entitled to one regular steward and one alternate steward. Richard Thurston is the regular steward and Eric Cordova is the alternate steward. On August 07, 2013, regular city carrier, Richard Thurston was on leave. Management contends that on Mr. Cordova's scheduled day off (SDO) of August 7, 2013, he was assigned to Laurel Heights after fulfilling previously scheduled union responsibilities at his home station of North Broadway. I asked Mr. Boyd if Mr. Cordova was refused time on August 07, 2013, to conduct union business and Mr. Boyd stated, "No". I asked Mr. Boyd if Mr. Cordova was able to conduct the union business that he had scheduled for that day and he stated, "Yes, eventually." Management contends that Mr. Cordova was able to conduct his union business immediately upon reporting to work. I asked Mr. Boyd what grievance or union business was Mr. Cordova denied and he stated, "I don't know." Mr. Cordova had some meetings set up and they should have been honored." I asked Mr. Boyd how were the meetings not honored and he stated, "They moved Mr. Cordova out of the station." The fact is that that management arranged for Mr. Cordova's union business at North Broadway before assigning him a route at Laurel Heights. Mr. Cordova's meetings were honored; therefore, there should be no grievance. The union was not harmed in any way shape or form. No one requested union representation in Mr. Cordova's absence and if someone did request a union steward at North Broadway while Mr. Cordova was there, management would have made other arrangements. Mr. Boyd contended that we do not move other stewards from office to office on their SDO. Management contends that CCA's are non-career employees and can be moved for their hold-downs on a SDO. CCA's do not fall under the same purview as a career city carrier. The intent of Article 17.3 is for stewards to not be transferred or excessed out of a station thus leaving a station without representation, indefinitely. It was not intended to stop a steward who is a CCA non-career carrier from carrying a route at a different station after fulfilling his steward duties at his/her home station. Management does not dispute that super-seniority exists. However, super-seniority was not violated in this situation. The steward was not excessed or forced to involuntarily transfer to another station. He was simply assigned a route for one day at another station. This grievance should be denied.

Step B discussion

On August 7, 2013, CCA Eric Cordova was temporarily assigned from North Broadway station to Laurel Heights Station. There are several undisputed facts regarding the circumstances in this case. On April 13, 2013, Mr. Cordova was certified as the alternate steward for the North Broadway Station. The week of August 3-9, 2013, the regular steward was absent (annual leave) and Mr. Cordova was the designated steward for the North Broadway Station. On August 7th Mr. Cordova was schedule to perform steward duties at North Broadway station. After performing his scheduled steward duties he was temporarily assigned to Laurel Heights Station.

It is management's position that the CCA carrier is not entitled to work a hold-down on the assignments regular scheduled day off and that Mr. Cordova was allowed to perform his scheduled union duties before reporting to Laurel Heights Station.

It is recognized that, absent a hold-down assignment, management has the right to assign city carrier assistants to any delivery unit in the installation as needed. It is also recognized that any carrier who is awarded a hold-down under the provisions of Article 41.2.B is only entitled to work the scheduled days and the daily hours of duty of the assignment and that the days off are "assumed" only in the sense that a hold-down carrier will not work on those days *unless* otherwise scheduled. (Reference JCAM pages 41-10 to 41-15)

Management contends that Mr. Cordova was temporarily reassigned on his scheduled day

off. While the assignment that Mr. Cordova had a hold-down on had a regular scheduled day off on August 7th; city carrier assistants do not have "scheduled days off"; they only have days they are not scheduled to work. The employee everything report verifies the employee's schedule as SSMTWTF, unlike the regular carrier's schedule on this assignment S-MT-TF.

However, neither Mr. Cordova's employment status, non-career city carrier assistant, nor whether or not he had a hold-down are relevant to this case. These cases addresses whether or not management can permanently or temporarily excess a steward from their delivery unit. Mr. Cordova was properly certified in North Broadway Station as the alternate steward. Management's position recognizes this by their position that Mr. Cordova was allowed to complete his steward duties on August 7th at North Broadway Station before having to report to Laurel Heights Station.

Article 17 Section 3. Rights of Stewards

When it is necessary for a steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and such request shall not be unreasonably denied.

In the event the duties require the steward leave the work area and enter another area within the installation or post office, the steward must also receive permission from the supervisor from the other area he/she wishes to enter and such request shall not be unreasonably denied.

The steward, chief steward or other Union representative properly certified in accordance with Section 2 above may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. Such requests shall not be unreasonably denied.

While serving as a steward or chief steward, an employee may not be involuntarily transferred to another tour, to another station or branch of the particular post office or to another independent post office or installation unless there is no job for which the employee is qualified on such tour, or in such station or branch, or post office.

If an employee requests a steward or Union representative to be present during the course of an interrogation by the Inspection Service, such request will be granted. All polygraph tests will continue to be on a voluntary basis.

Superseniority in Transfers

The contract contains special provisions protecting steward positions from transfer or reassignment. These special steward rights are known as "superseniority." The steward superseniority provision is contained in the last paragraph of Article 17.3. That language protects stewards from being transferred from a facility or tour where letter carriers are working—unless there is *no other city letter carrier job left*.

National Arbitrator Britton ruled in H4N-5C-C-17075, November 28, 1988 (C-08504), that Article 17.3 bars both temporary and permanent reassignments of stewards, and that the prohibition applies even if there are no vacant job assignments. In other words superseniority rights must be observed even if it requires an involuntary transfer of another, more senior carrier, whether full- or part-time. (Step 4, H1N-2B-C

7422, October 25, 1983, M-00077)

The steward's superseniority rights override the excessing provisions of Article 12, *Principles of Seniority, Posting and Reassignments*. So NALC stewards are always the last letter carriers to be excessed from a section, the craft or an installation, regardless of their seniority or their full- or part-time status.

The application of Articles 17.3 and 17.4 of the National Agreement for TEs that are union stewards is addressed in Question 28 of the parties' joint Questions and Answers on TEs. The complete TE Q&As are found on pages 7-10--7-15.

**QUESTIONS AND ANSWERS (42)
NALC TRANSITIONAL EMPLOYEES**

The attached jointly-developed document provides the mutual understanding of the national parties on issues related to NALC Transitional Employees. This document may be updated as agreement is reached on additional matters related to transitional employees.

Date: February 20, 2009

28. Do Article 17.3 and 17.4 of the National Agreement apply to transitional employees serving as union stewards?

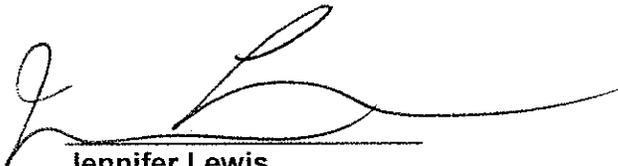
Yes.

In the city carrier assistant questions and answers the parties at the national level agreed that city carrier assistants can serve as a union steward; M-01819 page 9 Q&A 33. It is reasonable that the same provisions of Article 17.3 and 17.4 would apply to city carrier assistants as they applied to transitional employees and as they apply to career employees certified as union stewards.

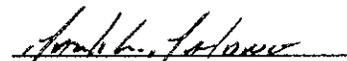
It is also noted that while Mr. Cordova was allowed to complete his steward duties as scheduled at North Broadway Station, the unit daily record also has him scheduled on route 1785. Mr. Cordova was scheduled to work as the steward and on a full-time regular assignment on August 7, 2013 at North Broadway Station.

The fact circumstances presented in this dispute have been adjudicated at the national level; the principle of *res judicata* applies.

National Arbitrator Britton ruled in H4N-5C-C-17075, November 28, 1988 (C-08504), that Article 17.3 bars both temporary and permanent reassignments of stewards, and that the prohibition applies even if there are no vacant job assignments. The application of Article 17.3 requires that the union steward will be the last carrier to be reassigned, permanently or temporarily, out of a delivery unit.



Jennifer Lewis
USPS Step B Representative



Mark L. Malone
NALC Step B Representative

RIO GRANDE DISPUTE RESOLUTION TEAM - AUSTIN

cc: Manager, SW Area Labor Relations
Manager, Rio Grande District
Kathy Baldwin, NALC NBA, Region 10
Postmaster, San Antonio, Texas
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Management Formal Step A Designee
NALC Branch President
NALC Formal Step A Designee
DRT File

Grievance file content:

| | |
|---|---|
| PS Form 8190 | Management's contentions (2 pages) |
| Request for formal meeting | Employee everything report |
| Information/steward time request | Route carrier daily performance analysis report |
| Designation of representative – union | (3 pages) |
| Designation of representatives – management | Additions and corrections – union (7 pages |
| Union's position | w/attachments) |
| Unit daily record (6 pages) | Additions and corrections – management (2 |
| PS Form 3971 | pages) |