



STEP B DECISION



COPY



Step B Team:
USPS:
John R. Lomba
NALC:
Emre Edwards

District:
Rio Grande

Decision: **RESOLVE**
USPS Number: **G06N-4G-C 0917 7202**
Grievant: **Class**
Branch Grievance Number: **421- 239-09**
Branch: **421**
Installation: **San Antonio**
Delivery Unit: **Lockhill**
State: **Texas**
Incident Date: **3/18/09**
Date Informal Step A Initiated: **3/25/09**
Formal Step A Meeting Date: **4/10/09**
Date Received at Step B: **4/20/09**
Step B Decision Date: **5/13/09**
Issue Code: **31.2000**
NALC Subject Code: **505006**

The DRT Team Mutually Agreed to Extend Time Limits.

ISSUE: Did management violate Articles 17 and 31 of the Joint Contract Administration Manual (JCAM) and a local in-station agreement when they failed to provide the union requested information in a timely manner? If so, what is an appropriate remedy?

DECISION:

The Dispute Resolution Team (DRT), Step B, mutually agreed to **RESOLVE** this grievance. Management violated Articles 17 and 31 when they failed to provide requested information in a timely manner. The DRT determined that an appropriate remedy for the failure in this instant case is a cease and desist.

EXPLANATION:

The union contended that management had violated Articles 17 and 31 as well as an in-station agreement when they failed to provide requested information in a timely manner. Information for a grievance alleging a violation of Article 8 on March 13th was requested on March 14th. The requested information was received by the union on March 20th. The union contended that the delay constituted a violation of an agreement made between Acting Supervisor E. Alvarado and Steward D. Morrison. The aforementioned agreement was signed December 3, 2008 and provided for the following:

- Management will cease and desist violating union's right under Article 17 and 31 of the JCAM to receive information to investigate a possible grievance.
- All information requested by the Union will be provided within 72 hours from the time the request was submitted.
- If the requested information is not received within 72 hours, an escalating remedy of twenty dollars (\$20.00) a day for each day over 72 hours will be awarded to each carrier involved in the grievance. This escalating amount of \$20.00 will increase by \$10.00 each occurrence that timely information is not provided.

The union calculated the remedy in this case to be \$1,120.00 to be split between the 14 carriers for this violation of Article 8.

Management contended that Acting Supervisor Alvarado was no longer at Lockhill Station and the agreement was null and void as a consequence. Management included a statement from Mr. Alvarado wherein he stressed that his intent in making this agreement was that it apply only to himself in his dealings with the union at Lockhill Station.

The DRT reviewed the case file and noted that the agreement in question is a document attached to a PS Form 8190 for union grievance #421-1111-08. In the preamble to the aforementioned resolution are the words, "During an Informal Step A meeting conducted on Dec 03 2008 between David Morrison (NALC Steward) and Eduardo Alvarado (USPS Supervisor) regarding the above violation. Both parties have agreed to the following in accordance with Article 17 Unions Right to Information of the JCAM." These words clearly establish that this agreement was entered into at the Informal Step A level. The JCAM specifies that

Informal Step A (b)

*(b) In any such discussion the supervisor shall have authority to resolve the grievance. The steward or other Union representative likewise shall have authority to **resolve** the grievance in whole or in part. The local parties are not prohibited from using the Joint Step A Grievance Form to memorialize a resolution reached at an Informal Step A Meeting. **No resolution reached as a result of such discussion shall be a precedent for any purpose.***

During the Informal Step A discussion the supervisor and the steward (unless the grievant represents him/herself) have the authority to resolve the grievance. Both parties must use the JCAM as their guide to the contract.

A resolution at this informal stage does not establish a precedent.

While either representative may consult with higher levels of management or the union on an issue in dispute, this section establishes that the parties to the initial discussion of a grievance retain independent authority to settle the dispute.

The requested documentation was received on March 20 as indicated by the two sets of initials on the Informal Step A request form. Two signatures on the same form acknowledge that the steward was ready to meet on the Article 8 grievance on March 24th and additional initials confirm that the meeting took place on March 25th. (The DRT commends both parties for their attention to the proper completion of this form.)

The JCAM is clear on management's requirement to supply requested documentation though it does not state it must be done within a specific timeframe. The DRT normally views within 3 days to be reasonable unless there is a justifiable reason for a delay. The parties are referred to the below excerpts from the JCAM:

Article 31 Section 3, pg 31-1:

The Employer will make available for inspection by the Union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance under this Agreement. Upon the request of the Union, the Employer will furnish such information, provided, however, that the Employer may require the Union to reimburse the USPS for any costs reasonably incurred in obtaining the information.

Requests for information relating to purely local matters should be submitted by the local Union representative to the installation head or designee. All other requests for information shall be directed by the National President of the Union to the Vice President, Labor Relations. Nothing herein shall waive any rights the Union may have to obtain information under the National Labor Relations Act, as amended.

Article 17, pg 17-6:

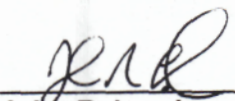
Steward requests to review and obtain documents should state how the request is relevant to the handling of a grievance or potential grievance. Management should respond to questions and to requests for documents in a cooperative and timely manner. When a relevant request is made, management should provide for review and/or produce the requested documentation as soon as is reasonably possible.

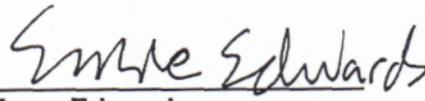
The DRT mutually agreed that the remedy requested by the union for the delay in providing documentation to prove the Article 8 violation would unjustly enrich the class of carriers involved and disproportionately penalize the Service by an amount over four times greater than the financial liability incurred by the Service for the violation originally grieved.

In this instant case the DRT came to a mutual agreement that a cease and desist order was appropriate and would like to forewarn management that future unreasonable delays in providing documentation may result in monetary sanctions from this office.

Grievance File Contents:

PS Form 8190 with union attachments, 3 pages	JCAM excerpt
Request for Formal Step A Meeting	Informal Step A Request
Union's Additions and Corrections	Extension
Management's Contentions, 2 pages	
Request for Documents and/or Time	
PS Form 8190 from Informal A with settlement attachment, 2 pages	
PS Form 8190 from Informal A for Article 8 grievance	
Informal Step A Request for Article 8 grievance	
Union contentions for Article 8 grievance, 32 pages	
Documentation provided for Article 8 grievance, 26 pages	


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NALC Step B Representative

cc: Joseph Jenkins, Manager, Labor Relations, Southwest Area
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DRT File