



STEP B DECISION

Step B Team:

USPS:

Rene Benavidez

NALC:

Karrie Blough

District:

Rio Grande

Formal A Reps:

USPS: **A. Alderete**

NALC: **R. Gould**

Decision: **RESOLVE**

USPS Number: **G06N-4G-C 1133 2925**

Grievant: **Class**

Branch Grievance Number: **421- 632-11**

Branch: **421**

Installation: **San Antonio**

Delivery Unit: **Lockhill**

State: **Texas**

Incident Date: **08/24/11**

Date Informal Step A Initiated: **08/30/11**

Formal Step A Meeting Date: **09/09/11**

Date Received at Step B: **09/13/11**

Step B Decision Date: **09/23/11**

Issue Code: **31.2000, 17.3000**

NALC Subject Code: **505006**

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ISSUE: Did management violate Articles 17 and 31 of the Joint Contract Administration Manual (JCAM) when they failed to provide the union requested information in a timely manner? Did management violate Article 19 by refusing to comply with multiple Step Decisions requiring management to provide requested information within 72 hours? 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 a monetary remedy for the failure in this instant case was warranted. The case file included a previous Step B decision for this unit in which a cease and desist was awarded as well as a precaution to management that unreasonable delays in providing documentation may result in monetary sanctions from this office. In this instant case the DRT came to a mutual agreement that a cease and desist order was appropriate and that a lump sum taxable payment of \$50.00 dollars to be paid to the steward Richard Gould was appropriate for the unreasonable delay. See DRT Explanation.

EXPLANATION:

The union contended that management had violated Articles 17 and 31 when they failed to provide requested information in a timely manner. Information for a grievance alleging a violation of Article 41 – failure to provide PS Form 1723 to the union was requested on August 22th. The requested information was received by the union on August 29th. The union contended that the delay constituted a violation of a decision made by the DRT for management to cease and desist and to provide information in a timely manner, normally three business days. The union references case number G06N-4G-C 0917 7202 which arose out of the Lockhill station. The union goes on to state that several other Formal A settlements have been entered into where management agrees to abide by the contract and provide documentation in a timely manner within three business days or 72 hours, absent any emergency situations. The

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union states management has been forewarned, yet still has refused to abide by these agreements.

The union provided additions and corrections which contend that management is claiming that the union failed to provide a memory stick for these for grievances in question and includes a statement from supervisor D. Moczygemba attesting to this. The union states this is not the case; the only grievance that the union requested information on stick was for grievance number 421-633-11 on which the union does admit item number 1 was requested in that format. The other three grievances have no reference to a memory stick at all. Management has been providing the data for the EER on a stick to the union for over a year now, and this has been the accepted process.

The union states that there have been a lot of supervisor changes at Lockhill and that the grievance that supervisor D. Moczygemba is referring to is 421-633-11. In that request, the union was told to submit the request to D. Moczygemba and then was told to submit the request to supervisor R. Gutierrez only to be told to submit the request to D. Moczygemba again. The union states that this why the names are scratched off at the top of the union's request for information.

The memory stick in question by management was taped to the information request. The information as well as the data on the stick was provided to the union on 08/26/2011. Management is confused about which grievance is being referenced by the union. The memory stick which was in question by management deals with a request for an Article 8 for the week of August 20-26 of which the union had not provided the stick for but did provide the stick on the 30th of August as annotated by management on the request for information.

Management is the one who is mistaken in this instant case as well as the other three documentation requests. The only grievance which specified that the EER be provided on stick was one for an Article 8 violation. The constant change in supervisors at Lockhill has created this lack of attention to the information requests submitted by the union.

The union requests as a remedy that management cease and desist in violating Article 17, 19, & 31 of the National Agreement and by not complying with the previous Step B decision the union also requests that management pay \$100.00 dollars to each carrier at Lockhill to serve as an incentive for management to cease and desist in violating the aforementioned Articles.

Management contends that they did not violate any of the Articles as cited by the union. According to the supervisor, a flash drive was never provided by the union so that management could complete the information request as submitted by the union. The union was the one who delayed the process by not making their flash drive available to management.

Management also contends that the union is not providing management with all the pertinent information at the Formal Step A and is waiting until the last minute to try and disclose all the information at one time. Management states that they have no problem in providing the union with the information they have requested but the union does not want to pay for any copies over the first 100 pages, and it was the union who came up with the idea to provide management a flash drive.

Management argues that if the union wants information to be provided on a flash drive then it needs to be made available at the time the request is submitted. In this instant case the union has withheld information until the last minute before the meeting. If the union does not play

fairly, then how can they (union) ask for a remedy for something they themselves are in violation of? Management offered to settle this grievance by instructing the supervisor's to provide all information even if meant that the union would be charged for the additional pages.

The DRT reviewed the case file and noted that the request for information (RFI) in question was concerning an Article 41 – providing PS Form 1723 violation and was submitted to management on 08/22/2011. Management acknowledged the RFI on the same date, however, did not provide the documentation until 08/29/2011 seven days after the request was submitted. Management's statement that the union did not provide a memory stick was not supported in the case file. The union was correct when they stated that the RFI did not ask for information that needed to be provided on a flash drive. Management did not properly address why there was a delay in the fulfillment of the RFI. The previous Step B decision did in fact provide management with an instruction to provide information within three business days and that any future unreasonable delays in providing documentation may result in monetary sanctions from this office. These words clearly establish that this previous decision was applicable to the Lockhill station.

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 business 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 cross craft 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 if in fact there were to be a violation found.

In this instant case the DRT came to a mutual agreement that a cease and desist order was appropriate and that a lump sum taxable payment of \$50.00 dollars to be paid to the steward Richard Gould was appropriate for the unreasonable delay. The DRT would like to continue to

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forewarn management that future unreasonable delays in providing documentation may result in more severe monetary sanctions from this office.


Rene Benavidez
USPS Step B Representative


Karrie Blough
NALC Step B Representative

Grievance File Contents:

Additions and Corrections
Informal Info Request (5 pgs)
PS Form 8190 (4 pgs)
Management Contentions (3 pgs)

Request for Formal A
Union Contentions (2 pgs)
Step B decisions (7 pgs)
Prior Settlements (3 pgs)

cc: Joseph Jenkins, Manager, Labor Relations, Southwest Area
District Manager, Rio Grande District
NALC NBA, Region 10
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Manager, Post Office Operations, SOUTX
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File