

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

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RESOLVED



STEP B DECISION

Step B Team: Laura Maglaris
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Decision: RESOLVED
USPS Number: G11N-4G-C 16176001
Grievant: Yvonne Escalante
Branch Grievance Number: 421-245-16
Branch Number: 421
Installation: San Antonio
Delivery Unit: AMF
State: Texas
Incident Date: 3/23/2016
Informal Step A Meeting Date: 4/1/2016
Formal Step A Meeting Date: 4/14/2016
Date Received at Step B: 4/19/2016
Step B Decision Date: 4/25/2016
USPS Issue Code: 31.2000
NALC Issue Code: 505006

District Grieving: Rio Grande
District Deciding: Dallas

Formal Step A Parties:
Francisco Cazares, USPS
Richard Gould, NALC

ISSUE: Did management violate Articles 15, 17, 19 and/or 31 of the National Agreement when they failed to provide information/documentation to the Union in a timely manner? If so, what is the appropriate remedy?

DECISION: The DRT **RESOLVED** this grievance. Management is directed to provide the documentation requested by the Union for Grievance #421-202-16 within 72 hours receipt of this decision. Management will schedule a Formal Step A meeting for the same grievance if it has not already done so.

In addition, the grievant will be paid a lump sum of \$150.00 to be input at the Step B level.

EXPLANATION: The Union contends management violated Articles 15, 17, 19 and/or 31 when they refused to provide the Union with requested documentation, specifically, Forms CA-1, CA-16 and CA-17 to process a grievance regarding Continuation of Pay. The Union contends management violated Articles 15, 17 and/or 19 by failing to provide the information within 72 hours as has been previously established as a reasonable time frame per numerous Step B decisions. The Union contends the *MOU Regarding the Release of FECA Records between the Department of Labor's Office of Worker's Compensation Programs and the United States Postal Service and the National Labor Relations Board* specifically allows for the release of these records in cases where the employee has explicitly challenged the Postal Service actions in connection with filing or

administration of a FECA claim involving the employee. The Union contends management repeatedly violates Article 17 by not providing documentation in a timely manner despite numerous DRT decisions for the same issue.

Management contends Grievance #421-202-16 is untimely. Management contends this grievance pertains to an OWCP case in which the USPS not only has the right, but it obligated to protect the medical information of the employees. Management cited Arbitration decision #C01N-4C-D 08119674, in which the Union argued was an unwarranted intrusion by the government agency into the privacy of a grievant's medical information when the OIG adopted a policy of obtaining and disclosing employees' personal medical information without the employees' knowledge or consent. Management contentions compared the OIG to the NALC, which is attempting to gather medical information without a letter of consent from the grievant. Management contends the NALC must have a letter of consent from the grievant to obtain Forms CA-1, CA-16 and CA-17 before releasing these documents to the NALC. Management cited an excerpt from a NALC Activist article dated March 2008 to support their position.

The DRT determined the requested documentation, specifically Forms CA-1, CA-16 and all CA-17s, is relevant to a grievance alleging management violated Article 19 by failing to pay the grievant Continuation of Pay subsequent to an on-the-job injury. The file contains a copy of *Memorandum of Understanding Regarding the Release of FECA Records between the Department of Labor's Office of Worker's Compensation Programs and the United States Postal Service and the National Labor Relations Board* dated 8/18/2014.

The Union submitted the request for this documentation on 3/10/2016. Management initially responded to the Union's request on March 14, 2016 stating the documentation would be provided as soon as it became available.

The Branch Vice President sent emails to various management officials on 3/23/2016 notifying them that to date, the requested documentation still had not been received and reminding them of the 72 hour requirement to provide documentation, as established by previous DRT Decisions.

Management responded via letter dated 4/1/2016, which stated, "*The request will be evaluated by District Labor Relations to determine whether the information is relevant to contract administration. If deemed not relevant, you will be advised of this determination. If the information is determined relevant and is not covered by the Safe Harbor List (as outline in the Memorandum of Understanding Regarding the Release of FECA Records), your request will be submitted to the Office of Workers' Compensation (OWCP) which will provide a response on whether the record(s) may be released.*"

The DRT concluded the *Memorandum of Understanding Regarding the Release of FECA Records between the Department of Labor's Office of Worker's Compensation Programs and the United States Postal Service and the National Labor Relations Board* provides that it is permissible to release relevant FECA records where the employee has explicitly challenged Postal Service actions in connection with filing or administration of a FECA claim involving the employee. In this case, the grievant is challenging management's decision to deny her Continuation of Pay, which is directly related to the on-the-job injury. The Forms CA-1, CA-16 and CA-17 are necessary and relevant for the Union to process a grievance alleging a violation regarding denied Continuation of Pay for an on-the-job injury.

The file also contains multiple Step B Decisions which involve the failure to provide or unnecessary delays in providing information/documentation to the Union. All of these DRT decisions effectively state that absent extenuating circumstances, management will provide relevant requested documentation to the Union within three (3) working days or 72 hours of receipt of the request.

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A Step B decision establishes precedent only in the installation from which the grievance arose. For this purpose, precedent means that the decision is relied upon in dealing with subsequent similar cases to avoid the repetition of disputes on similar issues that have been previously decided in that installation.

The DRT decisions included in the case file evidence repeated violations. As a result, remedies for violations have been awarded in an escalating manner in an effort to encourage future compliance. Based on the documentation included in the file, a monetary remedy is appropriate in this case.



James Chandler
USPS Step B Representative



Laura Maglaris
NALC Step B Representative

cc: Rio Grande DRT

Contents: 8190, NALC Contentions, NALC Requests, USPS Responses to Info Requests, Letter to Tony Boyd, Email Correspondence, Form NLRB-501, 8190, Grievance #421-202-16, HR Correspondence to Grievant, Memorandum of Understanding Regarding the Release of FECA Records between the Department of Labor's Office of Worker's Compensation Programs and the United States Postal Service and the National Labor Relations Board, Previous DRT Decisions, Steward Certification, USPS Contentions, NALC Activist Excerpt, Arbitration Decision #K98N-1K-C021801081, Arbitration Decision C01N-4C-D08119674,

