

RESOLVE



STEP B DECISION

USPS Step B:	Decision:	RESOLVE
Rose Barner	USPS Number:	G16N-4G-C 2012 5148
NALC Step B:	Grievant:	Christopher Gonzales
Jim Ruetze	Branch Grievance Number:	421-79-20
	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Leon Valley
Rio Grande	State:	TX
	Incident Date:	01/06/2020
	Informal Step A Initiated:	01/23/2020
	Formal Step A Meeting:	02/05/2020
	Received at Step B:	02/13/2020
	Step B Decision Date:	04/13/2020
	Issue Code:	02.1910
	NALC Subject Code:	100203

ISSUE:

Did management violate Articles 2 and/or 19 of the National Agreement by its harassment of the grievant? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file did not conclusively prove the grievant had suffered harassment. However, consistent with Section 115.4 of Handbook M-39, the manager at the station must maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities. Additionally, absent extenuating circumstances management will provide relevant requested documents within three (3) working days of receipt of the request. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Chris Gonzales, a full-time regular letter carrier assigned to Leon Valley Station in San Antonio, Texas with seniority dating to March 27, 2014. Statements the grievant provided for the file indicate a mistrust of management and what appears to be a general feeling of being "harassed," in addition to feeling singled out by management. The union filed this grievance to protest what it viewed as management's inappropriate treatment of the grievant. Unable to achieve a resolution through the Informal or Formal Step A levels of the grievance process the union appealed the grievance to Step B.

The union contended at Formal Step A that management has systematically abused its authority in the treatment of the grievant, including issuing unwarranted discipline, discussing his performance with other employees, and making comments designed to embarrass and belittle him. The union also contended management failed to provide

requested information and access to witnesses, and delayed steward time to process this grievance.

The union requested management treat the grievant the same as other employees instead of harassing him. The union also requested information and steward time be provided in a timely manner.

Management at Formal Step A contended the allegations of harassment are false. Management has not yelled or stood behind and observed the grievant. Management has also not confronted the grievant in his personal space. The grievant has not been singled out in any floor meeting or in any other manner, and management has not pointed fingers or made gestures or comments to diminish him as a person or employee. Management asserted whatever actions it took were in accordance with its contractual requirement to maintain the efficiency of the operation. Management maintained discipline is merely a tool to correct misconduct, and is not harassment.

The DRT reviewed the case file and determined the conduct described in the file did not rise to the level of harassment. In one claim, the grievant alleged management took his overtime away and gave it to two city carrier assistants and when the grievant questioned that decision he was told the supervisor felt it was a more efficient way to get the work done. The DRT agreed this response was not inappropriate or in violation of postal standards of conduct.

In another statement the grievant asserted management complains to other employees about his performance. The DRT agreed there was nothing in the file to substantiate it, but if it is taking place, management should not discuss the grievant's performance with anyone without an official need to know that information.

The union alleged management failed to permit the steward to interview other employees, which would have supported its claims. The DRT agreed the steward must have a reason for requesting information and should state how the request is relevant to the handling of a grievance. Unless management stipulates to the union's position on an issue in a grievance, it must permit the union to substantiate its position, either through relevant documentation or interviews with individuals.

Relevant guidance is found in Handbook M-39, *Management of Delivery Services*:

115.2 Using People Effectively

Managers can accomplish their mission only through the effective use of people. How successful a manager is in working with people will, to a great measure, determine whether or not the goals of the Postal Service are attained. Getting the job done through people is not an easy task, and certain basic things are required, such as:

- a. Let the employee know what is expected of him or her.
- b. Know fully if the employee is not attaining expectations; don't guess — make certain with documented evidence.

c. Let the employee explain his or her problem — listen! If given a chance, the employee will tell you the problem. Draw it out from the employee if needed, but get the whole story.

115.4 Maintain Mutual Respect Atmosphere

The National Agreement sets out the basic rules and rights governing management and employees in their dealings with each other, but it is the front-line manager who controls management's attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities.

Additionally, with respect to the issues of information and steward time, the DRT agreed the JCAM explains, in relevant part:

Steward Rights. Article 17.3 & 17.4 establish several steward rights:

- The right to investigate and adjust grievances and problems that may become grievances;
- The right to paid time to conduct those activities;
- The right to obtain management information. . .

Right to Steward Time on the Clock. Although a steward must ask for supervisory permission to leave his or her work area or enter another one to pursue a grievance or potential grievance, management cannot “unreasonably deny” requests for paid grievance-handling time.

Management may not determine in advance how much time a steward reasonably needs to investigate a grievance (National Arbitrator Garrett, MB-NAT-562/MB-NAT-936, January 19, 1977, C-00427). Rather, the determination of how much time is considered reasonable is dependent on the issue involved and the amount of information needed for investigation purposes (Step 4, NC-S-2655, October 20, 1976, M-00671).

Steward time to discuss a grievance may not be denied solely because a steward is in overtime status (Prearbitration Settlement, W4N-5C-C 41287, September 13, 1988, M-00857). It is the responsibility of the union and management to decide mutually when the steward will be allowed, subject to business conditions, an opportunity to investigate and adjust grievances (Step 4, N-S-2777, April 5, 1973, M-00332).

If management delays a steward from investigating a grievance, it should inform the steward of the reasons for the delay and when time will be available. Likewise, the steward has an obligation to request additional time and give the reasons why it is needed (Step 4, NC-C-16045, November 22, 1978, M-00127).

The appropriate remedy in a case where management has unreasonably denied a steward time on the clock is an order or agreement to cease and desist, plus

payment to the steward for the time spent processing the grievance off-the-clock which should have been paid time.

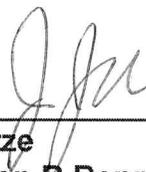
Right to Information. The NALC's rights to information relevant to collective bargaining and to contract administration are set forth in Article 31. This section states stewards' specific rights to review and obtain documents, files and other records, in addition to the right to interview a grievant, supervisors and witnesses.

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.

Based on its review of the case file, the DRT agreed to the decision on page one of this report.



Rose Barner
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:

LR Manager, Southern Area
NALC Region 10 NBA
Rio Grande District HR Manager
Rio Grande District LR Manager
USPS Formal A Frank Cazares

NALC Branch President
NALC Formal A Ralph Rodriguez
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190 (2 pgs)
Table of Contents
Request for Formal Step A Meeting (2 pgs)
Request for Information/Time/Meeting (4 pgs)
Steward Statements (6 pgs)
Grievant's Statements (6 pgs)
PS Form 3996 (31 pgs)
Jordan Arb Award (8 pgs)
Page 1 of DRT Decision
Prior Settlement re: Information Requests
Requests for Steward Time (6 pgs)
Dois Reports (12 pgs)
Scanner Messages (3 pgs)
Union's Additions & Corrections (46 pgs)

Management Contentions (2 pgs)
Steward, Standby, Mtg Time Report (5 pgs)
NLRB Letter (4 pgs)
Response to Request for Information
Investigative Interview Notes (2 pgs)
Prior Discipline (8 pgs)
Response to Additions & Corrections (6 pgs)
Scanner/Tracking Information (42 pgs)
Workhour/Workload Report (5 pgs)
Expedited Arb Award (8 pgs)
Performance/Analysis Report (8 pgs)
Inbox Messages (4 pgs)
"Bump and Run"
Observation Comments