

3996⁵

RIO GRANDE DISPUTE RESOLUTION TEAM
 10410 Perrin Beitel Road, Rm 1059
 San Antonio, TX 78284-9608
 PHONE 210-368-1768, FAX 210-368-8525



STEP B DECISION

Step B Team:

USPS:

Brian Liberty

NALC:

David W. Colgrove

District:

Rio Grande

Decision: **RESOLVE**

USPS Number: G06N-4G-C 0921 6885

Grievant: **Class**

Branch Grievance Number: 421-448-09

Branch: **421**

Installation: **San Antonio**

Delivery Unit: **Laurel Heights**

State: **TX**

Incident Date: **04/22/09**

Date Informal Step A Initiated: **05/05/09**

Formal Step A Meeting Date: **05/14/09**

Date Received at Step B: **06/07/09**

Step B Decision Date: **06/08/09**

Issue Code: **41.4510**

NALC Subject Code: **504204; 600139**

ISSUE:

Did management violate Article 3, 17, 19, and 41 of the Joint Contract Administration Manual (JCAM) when they denied all carriers access to PS Form 3996 in afternoon? If so what should be the remedy?

DECISION:

The Dispute Resolution Team (DRT), Step B, mutually agreed to **RESOLVE** this grievance. Management did violate the JCAM by restricting the use of PS Form 3996. Management will cease and desist not providing a Form 3996, and/or permitting entries after return from the route, upon request of carrier. See DRT explanation below.

EXPLANATION:

The **Union** contends that Management has failed to follow the guidelines of the JCAM, M-39 and M-41 by refusing the use of PS Form 3996 after returning to the office following their street duties. The Union acknowledges that management has the right to direct its employees but does not have the right to abuse its employees. In this case Ms. Moya, Mr. Saldana, Mr. Moreno, and Mr. Musquiz have demonstrated their willingness to do whatever it takes to make the station statistics look more favorable. On April 22, 2009 during Mr. Moreno's standup he instructed the carriers of Laurel Heights not to fill out a PS Form 3996 in the afternoon upon return from completing route. During interview with Mr. Saldana his instructions were "Do not fill out 3996 in PM at all will be addressed on 1017B. No PM notes on AM 3996 instructions..."

Management refused access to relevant information as provided for in Article 17, 31.3 and NLRB Act purposely crippled the union's ability to develop a plausible case. To date all requested interviews have not been allowed.

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Management contends "it is the *carrier's* responsibility to notify management before they leave to the route. In the A.M. if they are unable to complete their route in 8 hours, they will request a PS Form 3996 from their Supervisor. The Supervisor will give the carrier their 3996 after they question the carrier as to why they need a 3996. The carrier will fill it out in its entirety and the supervisor will let him know if overtime or auxiliary assistance is approved before they leave to the route. All of this is done in the AM. Employees providing relief on a pivot are required to complete the bottom of the form section P. Employees will not be allowed to write PM notes on the PS Form 3996 for their assigned route when returning from the street. This is a time wasted practice that has been stopped by management. Overtime worked by carriers that has not been pre-approved in the a.m. is unauthorized."

41.3..G. The Employer will advise a carrier who has properly submitted a Carrier Auxiliary Control Form 3996 of the disposition of the request promptly after review of the circumstances at the time. Upon request, a duplicate copy of the completed Form 3996 and Form 1571, Report of Undelivered Mail, etc., will be provided the carrier. If, while in the normal course of picking up DPS mail, a letter carrier determines the need to file a request for overtime or auxiliary assistance (or to amend a request that was previously filed), the carrier may do so at that time. The supervisor will advise the letter carrier of the disposition of the request or amended request promptly after review of the circumstances. This does not apply if the local parties have agreed upon a practice where the letter carrier has access to their DPS mail prior to filling out the request for overtime/auxiliary assistance.

Discussion the PS Form 3996 Carrier – Auxiliary Control form is the only form available to the carrier to estimate their workload, based upon experience of the carrier. This form is used to inform management of the carrier's estimate that it will take more than the 8 hours associated with the route and why they believe it will take longer than normal. Items that are not considered in the DOIS system for estimating route times are: accountable mail, SPRs, parcels, road construction, heavy DPS, etc. Additionally under M-41 section 131.33 after determining all deliveries cannot be made in "authorized" time, it provides for afternoon documentation of notifying supervisor that all deliveries cannot be made and what instructions were given by supervisor for daily documentation of route times. It is hard to remember three months ago why it took an extra 45 minutes on the route because of a vehicle breakdown or water main break unless it is recorded in daily records for that day. The standing rule for Form 3996 is that carrier estimates time in morning if over 8 hours and turns in the request to a supervisor. The Supervisor reviews the request and approves/disapproves it, notifying the carrier prior to pulling down mail from case. If there is a disagreement with time the carrier informs manager then, and following instructions of manager.

M-41 - 131.41 It is your responsibility to verbally inform management when you are of the opinion that you will be unable to case all mail distributed to the route, perform other required duties, and leave on schedule or when you will be unable to complete delivery of all mail.

*131.42 Inform management of this well in advance of the scheduled leaving time and not later than immediately following the final receipt of mail. **Management will instruct you what to do.***

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131.43 Complete applicable items on Form 3996, Carrier-Auxiliary Control, if overtime or auxiliary assistance is authorized in the office or on the street.

131.44 Report on Form 1571 all mail undelivered — including all mail distributed to the route but not cased and taken out for delivery. Estimate the number of pieces of mail.

131.45 **Do not curtail or eliminate any scheduled delivery** or collection trip **unless authorized by a manager**, in which case you must record all facts on Form 1571.

Article 41, Section 3.G provides: The Employer will advise a carrier who has properly submitted a Carrier Auxiliary Control Form 3996 of the disposition of the request promptly after review of the circumstances at the time. Upon request, a duplicate copy of the completed Form 3996 and Form 1571, Report of Undelivered Mail, etc., will be provided the carriers.

At the point on the route where carrier determines they will not be able to deliver all mail (most stations 1500) the carrier will notify the supervisor and request instructions. The supervisor must give clear and concise instructions what to do, i.e. continue deliver of mail or bring it back and someone else will deliver.

131.33 Unless otherwise instructed by a unit manager, deliver all mail distributed to your route prior to the leaving time for that trip and **complete delivery within scheduled time. It is your responsibility to inform management when this cannot be done.**

131.41 **It is your responsibility to verbally inform management when you are of the opinion** that you will be unable to case all mail distributed to the route, perform other required duties, and leave on schedule or **when you will be unable to complete delivery of all mail.**

Upon return to the office after completion of the route under the M-41 section 46 it states to answer Official Communications inquiries that require a written answer furnishing concisely and inclusively why the time was need and who approved it. Because if a carrier goes over there needs to be an explanation both for next day and future evaluations of the route times for insuring proper adjustment.

M-41 – 46 Answering Official Communications

Whenever an inquiry requires a written or oral reply, furnish the information concisely and inclusively.

131.22 Auxiliary Assistance and/or Overtime Given to Route

131.221 Source of Information

Obtain this information from Forms 3996 and/or PSDS Printout.

131.223 Analyzing the Form

When overtime or auxiliary time is frequently used on a route, determine whether (a) the route is properly adjusted, (b) the office time is consistent with mail volume, or (c) the carrier is performing duties efficiently.

M-00294 Step 4. March 2, 1984, H1N-5G-C 16766 In order not to undermine the purpose of the Form 3996, it is agreed that any employee who provides

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carrier assistance shall complete the lower portion of the Form 3996 as instructed on the form itself

M-00600 National Joint City Delivery Meeting November 16, 17, 1983,
Minor adjustments should not be based solely on form 3999 information, but should also include review and analysis of other current information such as, DUVRS, Form 3996, 1571, etc. concerning the route being considered for adjustment.

Statements from the Supervisors during the interviews necessitate a reminder of Step 4 decisions that are relevant to the statements that time is being recorded on 1017B. This requires review of information on PS Form 3996 which management directed not to be done.

UNAUTHORIZED OVERTIME

M-00326 Step 4 October 2, 1972, NC 711(47)

The grievants informed management of their **inability to complete their routes in 8 hours**. Further, it was demonstrated that they were ordered by management to complete the routes. Although there was no expressed authorization to complete the delivery of the mail on an overtime basis, **the permission would be inherent in the authorization to continue delivery** after notification that the grievants were unable to complete the routes.

M-01444 Pre-arb July 30, 2001, Q94N-4Q-C 99022154

The issue in these grievances is whether or not the Piece Count Recording System (PCRS), Projected Office Street Time (POST), or the Delivery Operations Information System (DOIS) violate the National Agreement. After reviewing this matter, we mutually agreed to settle these grievances as follows: Daily piece counts (PCRS) recorded in accordance with the above-referenced systems (POST or DOIS) will not constitute the sole basis for discipline. However, daily counts recorded in accordance with these procedures may be used by the parties in conjunction with other management records and procedures to support or refute any performance-related discipline. This does not change the principle that, pursuant to Section 242.332 of the M-39, **"No carrier shall be disciplined for failure to meet standards, except in cases of unsatisfactory effort which must be based on documented, unacceptable conduct that led to the carrier's failure to meet office standards."** Furthermore, the pre-arbitration settlement H1N-1N-D 31781, dated October 22, 1985, provides that **"there is no set pace at which a carrier must walk and no street standard for walking."** This settlement is made without prejudice to the parties' rights under Article 19 or Article 34 of the National Agreement. It is additionally understood that the current city letter carrier route adjustment process is outlined in Subchapter 141 and Chapter 2 of the M-39 Handbook. All those functionalities in DOIS, which relate to the route inspection and adjustment process, must be in compliance with these two parts of the M-39 as long as they are in effect. It is understood that no function performed by POST or DOIS, now or in the future, may violate the National Agreement.

Any effect on the 60 day evaluations during this period can only be made under the provisions of M-01703 which states that they will be made by the District Evaluation and Adjustment Team. The DEAT will be provided a copy of this decision for inclusion in

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their review of this unit. The District Team is the appropriate entity to make the decision if management actions have an impact on their analysis.

M-01703:

DATA ANALYSIS

Data Integrity

Data integrity issues will be addressed prior to any analysis and adjustments. Such issues include, but are not limited to, amended clock rings, work hour transfers, and designation of work hour codes.


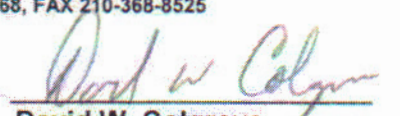
It is in the best interest of all parties that the data used is accurate and reliable. The Local Office contacts should make the District Evaluation and Adjustment Team aware of any issues they have had with the integrity of the data resulting from such things as altered time records, MODS code changes, or work hour transfers. The Team will review and address any such issues prior to completing any analysis of adjustment.

3. *All decisions regarding the evaluation and adjustments of routes, including Deductions and/or changes proposed by COR, or manually, are made jointly by the District Evaluation and Adjustment Team. Any items of disagreement will be identified and documented by the District Evaluation and Adjustment Team and immediately referred to the District Lead Team.*

Grievance File Contents:

PS Form 8190
Union contentions (3 pages)
Informal Step A
Letter assigning Grievances to alternate steward (2 pages)
Letter Manager redirecting information from Alternate to Steward
Request for Information request 4/4/09
O-13 assigning Article 8 grievance for Pay Period (PP) 08-1 to Alternate
O-13 assigning Article 8 grievance for PP 08-2 to Alternate/denied by Manager
Reference material (2 pages)
M-00014
Informal Request for Grievances (2 pages)
Time Extensions for Formal A's (5 pages)
Request for Formal A
Informal A request (6 pages)
PS Form 8190 (421-449-09)
Request for Formal A (2 pages)
NLFB Charge against Employer 16-CA-26771
Potter Letter "Our bond with Employees"
Elm 662
Informal A Art 17
Request for Formal A
Managements Formal A response (25 pages)

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Postmaster, San Antonio
NALC Branch President
USPS Formal A Representative (R Moya)
NALC Formal A Representative (J Blancarte)
DRT File