



## STEP B DECISION

**Step B Team:**

USPS:

**Yvonne Lopez**

NALC:

**David W. Colgrove**

Decision: **RESOLVE**

USPS Number: **G06N-4G-C 0939 5955**

Grievant: **John Rielly**

Branch Grievance Number: **421-1025-09**

Branch: **421**

Installation: **San Antonio**

Delivery Unit: **Thousand Oaks**

State: **TX**

Incident Date: **09/25/09**

Date Informal Step A Initiated: **10/09/09**

Formal Step A Meeting Date: **10/20/09**

Date Received at Step B: **10/27/09**

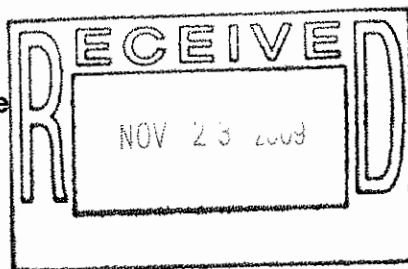
Step B Decision Date: **11/06/09**

Issue Code: **19.3000; 03.1000**

NALC Subject Code: **100031; 100103**

District:

**Rio Grande**



**ISSUE:**

Did management violate Articles 3, and 14 of the Joint Contract Administration Manual (JCAM) when the supervisor created a hostile and stressful environment by not giving grievant instructions when calling in to the station? If so, what is the appropriate remedy?

**DECISION:**

The Dispute Resolution Team, (DRT), has mutually agreed to **RESOLVE** this grievance. Management did not violate Articles 3 and 14 of the JCAM. See DRT explanation.

**EXPLANATION:**

Union contends that management at the Thousand Oaks is creating a hostile and stressful environment.

The union also contends that management is violating Article 14, Safety and Health as well as Article 3.

The grievant called in for instructions because he was not going to be able to complete his assignment in 8 hours. Supervisor failed to give the grievant clear instructions...supervisor stated, "I am going to leave you out there without a leg to stand on."

Grievant submitted a statement dated September 30, 2009, which states that on Monday, September 14<sup>th</sup>, 2009 the postal service implemented a route adjustment to my route 47036 and added 100 plus deliveries...

RIO GRANDE DISPUTE RESOLUTION TEAM  
10410 Perrin Beitel Rd, # 1059  
San Antonio, TX 78284-8430  
PHONE 210-368-1784, 210-369-1760, FAX 210-368-8525

On September 24<sup>th</sup>, 2009, supervisor instructed grievant to have an 8 hour day and the route had 23 minutes undertime.

Since the adjustment, grievant has not been able to complete the route in an 8 hour period.

On the 25<sup>th</sup> September 2009, supervisor instructed grievant that he must have an 8 hour day. Grievant asked for PS Form 3996 and requested 1.5 hours of assistance.

Grievant called at 2:30 pm and notified supervisor that he had 2.5 hours left on deliveries. Supervisor started lecturing him on my responsibility to have an 8 hour day. Grievant states that supervisor informed him that he was not going to take him off the hook by telling him to bring the mail he could not deliver within 8 hours back and added that he was going to leave him without a leg to stand on.

Grievant hung up and kept on going. Grievant called NALC President and informed her of the situation and she notified grievant to deliver the mail and annotate his PS Form 3996 upon his return to the unit that he spoke with the supervisor at 2:30 pm.

The shop steward then called the grievant and informed him to bring back what he could not deliver in 8 hours and not use any overtime.

Grievant states the supervisor is confrontational every day and cannot continue to tolerate this hostile behavior towards him.

Management contends that the union failed to provide them with any written contentions and any evidence of violence and/or harassment and this is only hearsay.

Management continues that the grievant with 32 years is not providing efficient service- nor is he making his office or street indicators as per the documentation provided. However, when a 3999 was done on the grievant, he was able to complete his street time in less than base time. Grievant makes claim that on the day management went out with him he used 53 minutes of overtime. This is not so, he worked only 8:37 that day and was over in the office by 14 minutes and time wasting practices on the street was 21 minutes. When you combine the two=35 minute overrun and when subtracted, leaves the route value at 8:02.

The grievant mentions that on September 14<sup>th</sup>, he had 100 plus deliveries added, not true. Only 88 deliveries were added and 34 were removed leaving a difference of 54 deliveries added due to the volume decline.

Management states that all carriers should expect to be supervised at all times. Additionally, if grievant was given an instruction on the 25<sup>th</sup> from his supervisor to have an 8 hour day, why is he calling the unit for further instructions and calling the union hall without 613 permission from supervisor? Grievant continues to fail to follow instructions. Grievant continues to threaten the supervisor with an EEO...

The DRT has reviewed the case file. The following is an excerpt from the **M-41, Carriers Duties and Responsibilities**.

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.**

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.**

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.

An instruction to have an 8 hour day, with no clarifying instructions especially if the carrier notifies management he cannot complete the route in 8 hours is not a fair and clear instruction. Management must clarify the 8 hour instructions with, curtail mail, auxiliary assistance and/or bring back what cannot be delivered within the 8 hours.

Management must inform carrier of his performance. It is still not clear if management has conducted a consult with the grievant on his performance.

The **M-39, section 115** has been included as a guideline for the parties:

### **115 Discipline**

#### **115.1 Basic Principle**

*In the administration of discipline, a basic principle must be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause. The delivery manager must make every effort to correct a situation before resorting to disciplinary measures.*

#### **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.*

The grievant also has a responsibility to abide by the criteria as set forth in the **M-41, Section 112.**

### **112.1 Efficient Service**

*Provide reliable and efficient service. Federal statutes provide penalties for persons who knowingly or willfully obstruct or retard the mail. The statutes do not afford employees immunity from arrest for violations of law.*

### **112.2 Diligence and Promptness**

*112.21 Obey the instructions of your manager.*

*112.22 Report for work promptly as scheduled.*

*112.23 Complete time records to accurately reflect the hours employed each day.*

*112.24 Display a willing attitude and put forth a conscientious effort in developing skills to perform duties assigned.*

*112.25 Be prompt, courteous, and obliging in the performance of duties. Attend quietly and diligently to work and refrain from loud talking and the use of profane language.*

*112.26 Do not report at cases or racks before tour of duty is scheduled to begin or linger about cases or racks after tour has ended.*

*112.27 Do not move mail from place to place on or adjacent to your case. Do not engage in any time wasting practices before placing mail in the proper separation.*

*112.28 Do not loiter or stop to converse unnecessarily on your route.*

*112.29 Return to the delivery unit immediately on completion of assigned street duties and promptly clock in on arrival. A motorized carrier unloads his vehicle and then immediately records returning time.*

The grievant was checked on 9/24/09 and was over in the office by 14 minutes and street by 13 minutes. Grievant had improper work methods as noted on PS Form 3999 which indicated a line of travel change submitted. Grievant delivered 2,525 pieces on this day. Grievant has demonstrated that he can make the route in 8 hours as done on October 2<sup>nd</sup>, 10<sup>th</sup>, and 17<sup>th</sup>, 2009, failing the other 23 attempts. Grievant delivered 2,454 pieces on October 2<sup>nd</sup>, 2009; 2,750 pieces on October 10<sup>th</sup>, 2009 and 3,033 pieces on October 17<sup>th</sup>, 2009. Therefore Article 41f would apply until such time as he becomes familiar.

**41.3 F.** *A newly appointed carrier or a carrier permanently assigned to a route with which the carrier is not familiar will be allowed a reasonable period to become familiar with the route and to become proficient.*

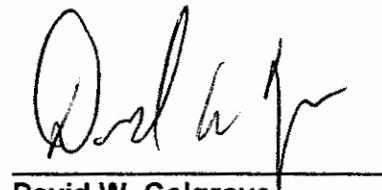
The parties are reminded that there is zero tolerance for violence in the workplace and both must foster an environment free of hostility.

RIO GRANDE DISPUTE RESOLUTION TEAM  
10410 Perrin Beitel Rd, # 1059  
San Antonio, TX 78284-8430  
PHONE 210-368-1784, 210-369-1760, FAX 210-368-8525

**Grievance File Contents:**

PS Form 8190  
Request for Formal A  
Informal Step A Form, 2 pgs  
Grievant Statement  
M-01242 & M-01243  
Definition of Harassment  
NALC Joint Statement on Violence Article  
M-39, Section 115.4  
G01N-4G-C 0722 2302  
Union Additions & Corrections, 2 pgs  
Management Contentions  
Workhour Workload Report, 2 pgs  
PS Form 1840 Reverse, 4 pgs  
PS Form 3999, page 1  
Letter of Warning, page 1

  
Yvonne Lopez  
USPS Step B Representative

  
David W. Colgrove  
NALC Step B Representative

cc: Manager, Labor Relations, Southwest Area  
Manny Arguello, District Manager, Rio Grande District  
Kathy Baldwin, NALC NBA, Region 10  
Manager, Human Resources, Rio Grande District  
Manager, Labor Relations, Rio Grande District  
Postmaster, San Antonio  
NALC Branch President  
USPS Formal A Representative (A Alderete)  
NALC Formal A Representative (P Pardo)  
DRT File