

**STEP B DECISION**

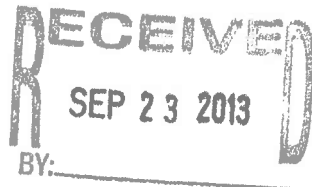
Step B Team:

USPS: **Jennifer Lewis**NALC: **Mark L. Malone**

District:

**Rio Grande**

Step A Reps:

USPS: **A. Pena**NALC: **J. Portales**Decision: **RESOLVE**USPS Number: **G11N-4G-1328 4945**Grievant: **Class Action**Branch Grievance Number: **421-599-13**NALC Branch #: **421**Installation: **San Antonio**Delivery Unit: **Laurel Heights 48-7964**State: **Texas**Incident date: **06/24/2013**Date Informal Step A: **07/08/2013**Formal Step A Meeting Date: **07/22/2013**Date Received at Step B: **08/06/2013** (AUS 08/29/2013)Step B Decision Date: **09/16/2013**Issue Code: **19.0000**NALC subject code: **100093**Original Step B Received Date: **08/06/2013**Date Sent to Assisting Team: **08/28/2013**

**ISSUE:** Did management violate Articles 3, 15, 19 of the National Agreement and ELM Section 665.16 when they failed to provide clear and concise instructions to the grievant (Mr. Rosas) in the afternoon as well as maintain a harmonious working environment? If so, what is the appropriate remedy?

**DECISION:** The Dispute Resolution Team mutually agreed to RESOLVE this grievance. While the Step B team mutually agrees the grievance was untimely initiated at the Informal Step A, it was also mutually agreed in order to avoid repetitive grievances, the merits of the case would be decided. Management failed to give the employee clear and concise instructions. When an employee informs management of their inability to comply with a previous instruction management will provide the employee with new or modified instructions.

**EXPLANATION:**

**The union contends** management violated the National Agreement, specifically Articles 3, 15, and 19 when on June 24, 2013 the steward was working on an article 8 grievance when the union was first made aware of the violation by reading Mr. Rosas's PS Form 3996. Mr. Rosas called back to the office in the pm and spoke with Manager A. Pena. When he asked for instructions on what to do if he could not complete his route in the time authorized the grievant states Mr. Pena failed to give clear and concise instructions because he simply instructed him to "follow his instructions that he was given in the A.M." This issue with clear and concise instructions has been resolved in a previous grievance that states, "At the point on the route where carrier determines they will not be able to deliver all mail (1500 for most stations) the carrier will notify the supervisor and request instructions. The supervisor must give clear and concise instructions what to do, i.e. continue to deliver mail, or bring it back and someone else will deliver." When Mr. Pena instructed Mr. Rosas to "follow his

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A.M. instructions", he failed to give clear and concise instructions. Furthermore, Mr. Pena violated article 15.2 of the National Agreement which states, "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." In addition, the union requested to interview every letter carrier in the station to see if this has happened to other carriers, but management only provided a couple of carriers to interview. Mr. Rosas followed the instructions in Handbook M-41, City Delivery Carriers duties and Responsibilities, section 131.4, by notifying management well in advance that he would be unable to complete the route in the amount of time authorized. However, Mr. Pena's response was not only sarcastic it was unprofessional. Mr. Pena responded to Mr. Rosas with, "Congratulations you called back!" Mr. Rosas continued to seek instructions from Mr. Pena explaining to him that his instructions were unclear, and ultimately Mr. Pena hangs up on Mr. Rosas. Mr. Pena also violated previous DRT decisions and ELM 665.16 that notify management to maintain a harmonious working relationship.

As remedy, the union requests that management give clear and concise instructions as defined in the previous Step B decision regarding carriers calling back in the afternoon. The union also requests that management maintains a harmonious working environment with all employees.

Another element to this case is the fact that management states this grievance was not properly appealed to Formal Step A. On 7/15/2013, I submitted some Formal Step A appeals to a supervisor, like I usually do, who in turn sent them to Mr. Jaramillo's station. When I met with Mr. Jaramillo on 7/16/13 on some other grievances I brought up this instant grievance to him and he stated he would not be meeting with me on it because Mr. Pena would be back on 7/22/2013. I told him that was fine. Prior to the Formal Step A meeting, Mr. Pena was on vacation for three weeks and reported back to work on July 22, 2013. This date happened to be the seventh day to meet on this grievance and the two others, therefore I informed Mr. Pena of the need to meet, and trying to bargain in good faith since no one had contacted me to setup a meeting. The union followed the process that was in place and accepted by management. The union contends if management is going to do things differently in the future when Mr. Pena is on vacation, then the arrangement needs to be made prior to the grievance being appealed as opposed to trying to come up with unwarranted procedural arguments at the last minute.

**Management contends** this grievance is procedurally defective because they were not aware of the Formal Step A meeting. The Formal A meeting request form is not dated, therefore the union could not prove the date the form was submitted to management. Management also contends this grievance is untimely since the Informal A meeting was conducted on July 8, 2013 and the date of incident is recorded as June 22, 2013. Fourteen days from the date of incident would be July 6, 2013, and the union did not submit anything showing an extension was granted. The grievance is untimely. Mr. Rosas made his annotations on the PS Form 3996 on June 11, 2013. The union is trying to use the date of June 24, 2013 as the incident date since that is the date the union claims they found out about the issue.

The union contends that management failed to maintain a harmonious working relationship with carrier Rosas, however, the issue is whether or not Rosas can understand the instructions that are given to him that makes the instruction unclear. Mr. Rosas takes no responsibility for his actions and often says "the instructions were unclear". Mr. Rosas is told daily what his volume is and if he doesn't agree with it then he has time to dispute it in the morning, however, he hardly ever leaves the office on time as instructed. In the DRT

decision cited, the issued discussed is the restriction of the use of 3996's and restricting carriers from writing entries on the form in the afternoon. Mr. Rosas wrote quite a bit on the 3996 which is evidence of how much time he wastes. This also shows the DRT decision cited does not apply to this grievance and is irrelevant and does not establish "precedent" as the union states. In addition, the DRT team never defined what clear and concise instructions were. Also, there was no violation of any MRS decision.

Management contends Mr. Rosas was not told "Congratulations you called back", nor was Mr. Rosas hung up on. Mr. Rosas did not like the instructions given and refused to hang up the phone so that I could assist customers in the lobby or answer the phones that were ringing. The union and Mr. Rosas are using the claim of a hostile work environment to add fuel to the fire. The union is incorrect in stating to carriers to follow the AM instructions is essentially telling them it is okay to go into overtime. According to Mr. Jaramillo, he did not get anything specific stating there was a Formal a request when he met with Mr. Portales on 7/16/2013. The union's remedy is unfounded and management does not agree to the demands or to the allegations. Management did not violate anything so there is no reason to cease and desist from anything.

### **Step B discussion**

Management's contention of timeliness must be reviewed to determine if the merits of the case will be examined. Management contends the grievant knew of the violation on June 11<sup>th</sup> and the informal meeting was held on July 8<sup>th</sup>. The informal Step A forms and the PS Form 8190 refer to a 'class action' grievance; however the union's issue statement and position paper refers to Mr. Rosas and June 11<sup>th</sup>. While the union became aware of the conversation between Mr. Rosas and Mr. Pena on June 24<sup>th</sup>, Mr. Rosas was aware of the issue on June 11, 2013 and did not inform the union until June 24, 2013. These dates do fall within the parameters of Article 15; the Step B team mutually agrees this grievance was untimely initiated at the Informal Step A level.

### **15.2 Section 2. Grievance Procedure—Steps**

#### **Informal Step A (a)**

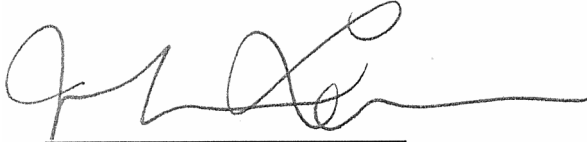
#### **Informal Step A**

(a) Any employee who feels aggrieved must discuss the grievance with the employee's immediate supervisor within fourteen (14) days of the date on which the employee or the Union first learned or may reasonably have been expected to have learned of its cause. This constitutes the Informal Step A filing date.

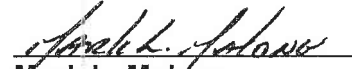
Management also contends the grievance is procedurally defective since management was unaware of the appeal to formal. Mr. Pena states July 22<sup>nd</sup> was the day he returned from 3 weeks of leave; there is no reasonable expectation he would know of the appeal. Management also states that the union cannot show that the appeal was every given to management, the form is not dated or signed by management. The union's has addressed the supervisors' refusals to sign for appeals to formal in previous grievance files. The union has speculated that Mr. Pena has instructed the supervisors to refuse to sign for these appeal notices. The case file does contain a statement by the alternate steward that supervisor Ramirez refused to the notice of appeal.

In addressing the merits of the case, the DRT team mutually agrees management has the responsibility to provide employees with clear and concise instructions at all times. Since management is unsure of what clear and concise instructions are, the team submits the following as answers when employee call regarding their inability to complete the route in accordance with instructions received in the AM operation.

- Either the carrier should be instructed to deliver the mail inclusive of overtime,
- The carrier should be instructed to bring the mail back to the station for someone else to deliver, or
- The carrier should be instructed to continue to deliver the mail and someone will be sent out to help them finish which may also result in (some) overtime.



**Jennifer Lewis**  
**USPS Step B Representative**



**Mark L. Malone**  
**NALC Step B Representative**

cc: Manager, SW Area Labor Relations  
Manager, Rio Grande District  
Kathy Baldwin, NALC NBA, Region 10  
Postmaster, San Antonio, Texas  
Manager, Human Resources, Rio Grande District  
Manager, Labor Relations, Rio Grande District  
Management Formal Step A Designee  
NALC Branch President  
NALC Formal Step A Designee  
DRT File

Grievance file content:

PS Form 8190  
Union's position (5 pages)  
PS Form 8190  
Statement R. Carmona  
PS Form 3996  
Step B Decision G06N-4G-C 09216885 (6 pages)  
Statement J. Buitron  
Statement T. Garcia  
Statement by grievant (3 pages)  
Step B Decision G06N-4G-C 10263947(4 pages)  
Step B Decision G06N-4G-D 12290287(4 pages)  
Step B Decision G06N-4G-C 12318154(5 pages)  
Request for Documentation

Request to Interview Employees  
Request for Documentation  
Letter from Mark Harpel  
Request for Documentation (2 pages)  
Request for Formal Step A Meeting  
Management Contentions (5 pages)  
Request for Formal Step A Meeting  
Statement Mark Harpel  
PS Form 3996  
Statement NALC  
PS Form 8190  
Route/Carrier Daily Performance/Analysis Report