



COPY



RECEIVED		STEP B DECISION	
Step B Team:	JUN 22 2009	Decision:	RESOLVED
USPS: Carl L. Geller		USPS Number:	G06N-4G-C 0921 9458
NALC: Brenda J. Muesel		Grievant:	Class Action
		Branch Grievance Number:	421-415-09
District:		NALC Branch #:	421
Rio Grande		Installation:	San Antonio
		Delivery Unit:	Laurel Heights 48-7964
Step A Reps:		State:	Texas
USPS: R. Moya		Incident date:	03/11/09
NALC: J. Portales		Date Informal Step A:	04/30/09
		Formal Step A Meeting Date:	05/14/09
		Date Received at Step B:	05/22/09 (Aus 05/28/09)
		Step B Decision Date:	06/16/09
		Issue Code:	65.2000
		NALC subject code:	600139

TIME LIMITS AT STEP B EXTENDED BY MUTUAL AGREEMENT

ISSUE: Was there a violation of the Article 19 of the National Agreement by the changes made to employees' clockrings? If so, what is an appropriate remedy?

DECISION: The dispute resolution team mutually agreed to resolve this grievance. Management violated Article 19 via the Handbooks F-21 and M-32 by the instruction to use improper Management Operating Data System numbers for the work being performed. Management violated Article 19 via the Handbooks F-21, M-32 and M-39 by the changes made to labor distribution codes which directly affected routes times. Management will 'cease and desist' instructing the use of or altering Management Operating Data System numbers which conflict with current handbooks and manuals. Management will comply with Handbooks F-21, M-32 and M-39 to correctly record employees' work activities with the appropriate labor distribution codes and Management Operating Data System numbers.

EXPLANATION: The union contends that management has failed to follow the guidelines of the Joint Contract Administration Manual and the Employee and Labor Relations Manual by knowingly altering carriers' clockrings. In the development of another case file it was noticed that an employee's clockrings had been changed. Training time (7820-00) had been added to the employee's moves while he was delivering mail. When the employee was interviewed he stated that he has never made a move to operation 782 while on the street and he has never had a trainer out with him on the street. When the manager was informed of the changes, she stated it must have been a mistake and that it was a one time occurrence. Upon further investigation the union determined that it was not a one time occurrence. The manager stated the errors must have been because he did not have a time card and because he was new to the station that some mistakes had happened. In this case it is evident that the employee was placed on 782, while still on the street, by the manager. If it was a mistake why was it made on four consecutive days? The union contends that the management staff has demonstrated a willingness to do whatever it takes

to make the station statistics look good. The union contends that the manipulation of clockrings is ongoing. The union contends that the memorandum in regard to the Modified Interim Alternate Route Adjustment Process speaks directly to data integrity. The memorandum brings up amended clockrings. The low mail volume has hit all of us very deeply, to manipulate the numbers even more is a travesty. As remedy the union requests that management 'cease and desist'. In addition the union insists that all clock associations for the last 4 months be returned to the proper operation association. If this cannot be accomplished the union requests that all 782 clock associations and any abnormal data used to adjust the routes be accounted for and that the integrity of the data be in accordance with the memorandum in regard to the Modified Interim Alternate Route Adjustment Process. The union requests that the Office of Inspector General investigate these possible manipulations of the clock associations.

Management contends that the informal meeting took place on April 30, 2009 and the union cited the incident date as 03/11/2009. The date on the initial Informal Step A form is 4/15/09. The form shows a request to interview one carrier and all other personnel and documents needed. There was no specific documentation requested on the form. A second form was submitted on 4/30/9 requesting the Employee Everything Report on compact disk for all carriers ever worked at Laurel Heights in 2009. While the union contends that management moved the carrier to operation 782 without just cause, just cause is a term used in the discipline process. The second item the union cited that management violated was that management instructed carriers to move to operation 782 when conducting the Airport run and the Trinity run. Management has the right to direct its employees in the daily functions at the unit. The carrier is not being denied any wages and/or salary. Management is attempting to place the hours in a function in order to monitor the hours used daily on the runs. Operation 782 is a training function code and management has utilized this function as well as others. When asked about operation 733 the union was informed that the unit was not budgeted to use this function. Management did not know what the union was alluding to in regard to Mr. Preusser, he was a new carrier at the station and management knew he had received some training. Management requested an extension due to pending leave; the union agreed to the extension. The informal management representative notified the union that this grievance is untimely. The union claims the incident happened on 03/11/09 and they were made aware 3/19/09 after reviewing the clockrings for the dates March 7th through March 13th. This grievance was noted at the informal and formal steps by both management representatives that it was untimely filed by the union. The union has failed to articulate what part of Articles 3 or 19 were violated. Just cause is not a purview in either of these articles. As stated by both management representatives, the union failed to satisfy that there was a violation. No proof has been submitted to either management representative. Management received PS Form 8190 without any information. Under Article 15 the formal parties must exchange any and all information relative to the grievance. The union wants to read their contentions and does not provide a copy. During the informal meeting the union does not exchange any documentation and notes are taken by the supervisor. In conclusion, this grievance has no merit and is untimely filed at the informal level. Secondly, the Trinity run is a moot issue. The Airport run is a work around due to the fact that all offices must go get express mail daily. There is no specified functional code for this activity.

Management's contention of timeliness must be addressed to determine if the merits of the case will be examined. Management is correct that the Joint Step A Grievance Form annotates the incident date as March 11th and the informal meeting is recorded as April 30th.

Management's position on timeliness rests on the alteration of clockrings for Mr. Preusser from March 14th through March 18th. All of the changes to Mr. Preusser's clockrings were

made on either March 17th or March 18th. In this circumstance what must be considered is: could the union have reasonably known that management altered the clockrings for this individual six (6) or seven (7) days before they were changed? The Employee Everything Report, showing the changes to Mr. Preusser's time, is dated March 24th. At the earliest the union could have known about Mr. Preusser was March 24th. That being said, this grievance is a class action grievance and was not filed based on the alterations to Mr. Preusser's clockrings alone.

With the exception of Mr. Preusser, the union's contention in this case is that from, based on the documentation contained in the case file, April 11th through April 18th management changed the clockrings associated with multiple city routes. While the incident date is listed as March 11th, in no manner is it reasonable to conclude that the employee or the union could have known or have had reasonably been expected to have known, thirty (30) days prior to these dates that the clockrings had been or would be changed. The union did contend that while completing the additions and corrections for an Article 8 case, which included the dates March 11th and 18th, the changes were noticed. While the meeting dates for that case are not known, additions and corrections are generally completed after the Formal Step A meeting. It is reasonable to believe that that meeting would not have occurred prior to April 18th.

Then there is the documentation request dated 4/15/09 and the documents presented as evidence in this case. Those documents were produced by "KY2800" on April 21st and 25th. Given these dates the employee and the union could not have reasonably been expected to know of the circumstances presented in this case prior to April 21st.

The next thing that must be considered is whether the parties at the informal meeting were aware of what was being discussed. The management representative records that the NALC presented arguments in regard to Mr. Preusser as well as the instruction for carriers to move to operation 782 when conducting the Airport run and the Trinity run. Mr. Preusser was carrying routes 12013, 12017, 12027 and 12044 on the days his clockrings were changed. The clockrings for the Airport and Trinity runs are not a factor in regard to Mr. Preusser. The first known record of these duties being recorded under operation 782 is April 11, 2009; the date Mr. Saldana deleted Mr. Barrera's association with 733 and changed it to 782. It is not unreasonable to believe that 4/11 was incorrectly annotated as 3/11 on the PS Form 8190.

The last consideration is the mutual agreements signed by the local parties. The first agreement to extend the time limits for the informal meeting is signed by the station manager on April 22nd. This agreement lists four grievances including this file (421-415-09). The second agreement, signed on April 28th, lists three cases, including this one, but is not limited to a specific level of the process. This file was presented at informal on April 30, 2009. It was mutually agreed at Step B that the union initiated this grievance within the time limits established by the local parties' extension agreements.

This case file presents Employee Everything Reports from April 11th through April 28th 2009 and Mr. Preusser's from March 11th and 18th. These reports show no less than one hundred and fourteen (114) changes to forty-one carriers' clockrings. An appreciable number of these changes performed required maintenance and had no affect on either the employees' pay or route association. These changes included deleting duplicate clockrings, correcting route associations and moves, the addition of leave and the input of union official time.

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Management's position paper only address changes made to Mr. Preusser's clockrings and did not address the vast majority of the changes or provide any rationale which justifies any of the changes.

Most notably, Saturday, April 18th, 28 changes were made; 21 reduced carriers' office times by adding operation 7430-00 (Carrier Customer Support Activities), 3 reduced street times, 3 changed operation 3450-00 (Waiting on Mail) to 7820-00 (Training) and 1 added the Trinity run under operation 7820-00. The majority of changes using operation 7430-00 applied various amounts of time at various times of the morning; there is no discernable pattern. While these changes may have been reasonable and necessary they may affect a route evaluation. Management's position papers did not address these changes.

By Whom	When	To Who	Date	Oper.	Begin	End	potential consequence
02047247	18-Apr	Becerra, GR	11-Apr	7820-00	16.45	16.77	reduced street time
02047247	18-Apr	Lopez, CA	11-Apr	7820-00	15.54	15.81	reduced street time
02047247	18-Apr	Lopez, CA	11-Apr	7820-00	15.54	15.81	reduced street time
02047247	18-Apr	Becerra, GR	18-Apr	7430-00	9.00	9.21	reduced office time
02047247	18-Apr	Billnitzer, DJ	18-Apr	7430-00	8.75	8.95	reduced office time
02047247	18-Apr	Blancarte, J	18-Apr	7430-00	8.90	9.11	reduced office time
02047247	18-Apr	Cabral, JR	18-Apr	7430-00	8.70	8.85	reduced office time
02047247	18-Apr	Cortinez, GG	18-Apr	7430-00	8.50	8.62	reduced office time
02047247	18-Apr	Cruz, RJ	18-Apr	7430-00	8.48	8.81	reduced office time
02047247	18-Apr	Garcia Jr., TS	18-Apr	7430-00	9.25	9.47	reduced office time
02047247	18-Apr	Gomez, A	18-Apr	7430-00	9.00	9.27	reduced office time
02047247	18-Apr	Ivery, ER	18-Apr	7430-00	8.00	8.05	reduced office time
02047247	18-Apr	Mead, DA	18-Apr	7430-00	8.50	8.73	reduced office time
02047247	18-Apr	Menacher, JM	18-Apr	7430-00	8.50	8.78	reduced office time
02047247	18-Apr	Murguia, E	18-Apr	7430-00	8.50	8.88	reduced office time
02047247	18-Apr	Nickell, DK	18-Apr	7430-00	8.50	8.97	reduced office time
02047247	18-Apr	Portales, JL	18-Apr	7430-00	9.00	9.26	reduced office time
02047247	18-Apr	Preusser, MJ	18-Apr	7430-00	8.40	8.59	reduced office time
02047247	18-Apr	Ramirez, D	18-Apr	7430-00	8.50	8.63	reduced office time
02047247	18-Apr	Rivera, RW	18-Apr	7430-00	8.90	9.19	reduced office time
02047247	18-Apr	Rodriguez, MA	18-Apr	7430-00	8.95	9.15	reduced office time
02047247	18-Apr	Smith Jr., A	18-Apr	7430-00	8.75	8.87	deleted 3450-00
02047247	18-Apr	Tapia, R	18-Apr	7430-00	8.48	8.84	deleted 3540-00
02047247	18-Apr	Tristan, T	18-Apr	7430-00	9.00	9.21	reduced office time
02047247	18-Apr	Barrera, JG	18-Apr	7820-00	6.75	7.94	deleted airport run
02047274	18-Apr	Crane, PH	18-Apr	7820-00	8.04	8.25	reduced office time
02047247	18-Apr	Lopez, CA	18-Apr	7820-00	8.33	9.17	reduced office time
02047247	18-Apr	Mendiola, RG	18-Apr	7820-00	9.32	10.32	added Trinity run

Management contended that the changes to Mr. Preusser's clockrings were 'simply applied to the street due to his status as a new transfer from Ohio' and "to preserve route integrity". There is no known precedence which allows the alteration of a carrier's clockrings "to preserve route integrity".

Management at informal step A contends; "Management has notified the Union that it dictates the operations used, created and performed provided that they do not interfere with the national contract or applicable laws." Management at the local level does not have the authority to change applicable handbooks and manuals. The current F-21 and M-32


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'dictate' what operation codes will be used. The operation code is 'dictated' by the activity being performed. These handbooks do not allow local management any discretionary authority to dictate alternate operation codes.

In addition to the changes which altered office times, numerous changes were made that affected routes' street time or PM office time.

By Whom	When	To Who	Date	Oper.	Begin	End	
02047247	13-Apr	Barrerra, JG	11-Apr	7820-00	14.98	15.25	deleted 7430-00
02047247	13-Apr	Cabral, JR	11-Apr	7820-00	15.27	15.52	reduced PM office time to zero
02047247	13-Apr	Ramirez, D	11-Apr	7820-00	15.17	15.42	deleted move to office
02047247	14-Apr	Cortinez, GG	13-Apr	7820-00	15.70	15.87	reduced PM office time
02047247	14-Apr	Ramirez, D	13-Apr	7820-00	14.00	15.57	deleted move to route 12028 and return to office
02047247	15-Apr	Becerra, GR	14-Apr	7820-00	15.89	17.89	reduced street time
02047247	15-Apr	Lopez, CA	14-Apr	7820-00	16.46	17.46	reduced street time
02047247	16-Apr	Ivery, ER	16-Apr	7820-00	16.75	17.42	reduce street or office time
02047247	17-Apr	Becerra, GR	16-Apr	7820-00	16.08	17.08	reduced street time
02047247	17-Apr	Preusser, MJ	17-Apr	7820-00	16.22	16.24	deleted PM office time
02047247	18-Apr	Becerra, GR	11-Apr	7820-00	16.45	16.77	reduced street time
02047247	18-Apr	Lopez, CA	11-Apr	7820-00	15.54	15.81	reduced street time
02047247	18-Apr	Lopez, CA	11-Apr	7820-00	15.54	15.81	reduced street time
02172396	13-Apr	Cortinez, GG	11-Apr	7210-00	14.00	14.75	reduced street time on 12013 increased 12028
02414900	13-Apr	English, JT	11-Apr	7820-00	17.48	17.60	reduced PM office time

* Table is representative and is not exhaustive of all changes made


Brenda J. Muessel
NALC Step B Representative


Carl L. Geller
USPS Step B Representative

cc: Manager, SW Area Labor Relations
 Manager, Rio Grande District
 Gene Goodwin, 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
 Additions and Corrections - union (13 pages)
 Management's Response (2 pages)
 Union's Contentions (4 pages)
 E-mail-Young

Employee Listing Report
 Employee Everything Report (186 pages)
 Memorandum (4 pages)
 Informal Step A
 Extension Agreement

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Extension Agreement
Informal Step A
Request for Formal Step A

Request for Formal Step A
Management's Response (10 pages)