

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

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Kimetra Lewis  
NALC Representative



RESOLVE



STEP B DECISION

Step B Team: Kimetra Lewis  
James Chandler

Grieving District  
Rio Grande

Deciding District  
Dallas

Formal Step A Parties  
NALC: William McCain  
USPS: Geri Gonzalez

Decision: RESOLVED  
USPS Number: G11N-4G-C 15334190  
Grievant: Ariel Benitez  
Branch Grievance Number: 421-608-15  
Branch Number: 421  
Installation: San Antonio  
Delivery Unit: Thousand Oaks  
State: Texas  
Incident Date: 08/31/2015  
Date Informal Step A Initiated: 09/04/2015  
Formal Step A Meeting Date: No Meeting  
Date Received at Step B: 09/30/2015  
Step B Decision Date: 10/19/2015  
USPS Issue Code: 29.0000  
NALC Issue Code: 100060  
Original Step B Received Date: N/A  
Date Sent To Assisting Team: N/A

**ISSUE:** Did Management violate Article 29 of the National Agreement by failing to make every reasonable effort to reassign the Grievant non-driving duties in the Grievant's craft or other crafts? If so, what is the appropriate remedy?

**DECISION:** The Dispute Team has agreed to **RESOLVE** this instant grievance. A violation has occurred. The Management team in the Thousand Oaks Station must begin the process of reimbursing the Grievant for the 50.19 hours of annual leave used by the Grievant beginning September 1 – 16, 2015 due to Management's failure to make a reasonable effort to reassign the Grievant with non-driving privileges during the suspension period. Upon completion of the necessary forms, it is Management's obligation to provide the Union with a copy of the completed forms. The process for the reimbursing should begin no later than 14 days of receipt of this decision and should be completed within 30 days of receipt of this decision.

**EXPLANATION:** On August 31, 2015, Management issued the Grievant a notice of the revocation of his driving privileges. On September 1, 2015, the Union initiated a grievance in regards to the notice of the revocation of the Grievant's driving privileges.

The Union argued Management failed to consider the Grievant's sixteen (16) years of faithful service with zero (0) accidents. The Union also argued Management cited only one (1) day of alleged driving infractions. The Union contended Management delayed refresher driver's training until September 11, 2015, depriving the Grievant of available work. The Union further contended Management violated the National Agreement by forcing the Grievant to use Annual Leave instead of supplying the Grievant with available non-driving duties.

The Union argued Management failed to meet at the Formal Step A Level of the Grievance / Arbitration Procedure.

Management failed to supply any written contentions.

According to Article 29 of the National Agreement:

An employee's driving privileges may be revoked or suspended when the on-duty record shows that the employee is an unsafe driver.

Elements of an employee's on-duty record which may be used to determine whether the employee is an unsafe driver include but are not limited to, traffic law violations, accidents or failure to meet required physical or operation standards.

The report of the Safe Driver Award Committee cannot be used as a basis for revoking or suspending an employee's driving privileges. When a revocation, suspension, or reissuance of an employee's driving privileges is under consideration, only the on-duty record will be considered in making a final determination. An employee's driving privileges will be automatically revoked or suspended concurrently with any revocation or suspension of State driver's license and restored upon reinstatement. Every reasonable effort will be made to reassign such employee to non-driving duties in the employee's craft or in other crafts. In the event such revocation or suspension of the State driver's license is with the condition that the employee may operate a vehicle for employment purposes, the employee's driving privileges will not be automatically revoked. When revocation or suspension of an employee's driving privileges is under consideration based on the on-duty record, such conditional revocation or suspension of the state driver's license may be considered in making a final determination.

Initial issuance—an employee shall be issued a Certificate of Vehicle Familiarization and Safe Operation when such employee has a valid State driver's license, passes the driving test of the U.S. Postal Service, and has a satisfactory driving history.

An employee must inform the supervisor immediately of the revocation or suspension of such employee's State driver's license.

**Every reasonable effort to reassign.** Even if a revocation or suspension of a letter carriers driving privileges is proper, Article 29 provides that, "every reasonable effort will be made to reassign the employee in non-driving duties in the employee's craft or other crafts." This requirement is not contingent upon a letter carrier making a request for nondriving duties. Rather, it is management's responsibility to seek to find suitable work.

National Arbitrator Snow held in I94N-4I-D 96027608, April 8, 1998 (C-18159), that management may not reassign an employee to temporary non-driving duties in another craft if doing so would result in a violation of other craft's agreement. If it is not possible to accommodate temporary cross-craft assignments in a way that does not violate another craft's agreement, a letter

carrier who is deprived of the right to an otherwise available temporary cross-craft assignment to a position in another craft must be placed on leave with pay until such time as he may return to work without violating either unions' agreement. In accordance with Arbitrator Snow's award, in situations where city letter carriers temporarily lose driving privileges, the following applies:

- Management should first attempt to provide non-driving city letter carrier craft duties within the installation on the carrier's regularly scheduled days and hours of work. If sufficient carrier craft work is unavailable on those days and hours, an attempt should be made to place the employee in carrier craft duties on other hours and days, anywhere within the installation.
- If sufficient work is still unavailable, a further attempt should be made to identify work assignments in other crafts, as long as placement of carriers in that work would not be to the detriment of employees of that other craft.
- If there is such available work in another craft, but the carrier may not perform that work in light of the Snow award, the carrier must be paid for the time that the carrier otherwise would have performed that work.

Management failed to document their attempts in regards to reassign the Grievant to non-driving privileges.

According to Article 15 of the National Agreement;

**Formal Step A (c)** The installation head or designee will meet with the steward or a Union representative as expeditiously as possible, but no later than seven (7) days following receipt of the Joint Step A Grievance Form unless the parties agree upon a later date. In all grievances at Formal Step A, the grievant shall be represented for all purposes by a steward or a Union representative who shall have authority to resolve the grievance as a result of discussions or compromise in this Step. The installation head or designee also shall have authority to resolve the grievance in whole or in part.

**15.2 Formal Step A (d)** At the meeting the Union representative shall make a full and detailed statement of facts relied upon, contractual provisions involved, and remedy sought. The Union representative may also furnish written statements from witnesses or other individuals. The Employer representative shall also make a full and detailed statement of facts and contractual provisions relied upon. The parties' representatives shall cooperate fully in the effort to develop all necessary facts, including the exchange of copies of all relevant papers or documents in accordance with Articles 17 and 31. The parties' representatives may mutually agree to jointly interview witnesses where desirable to assure full development of all facts and contentions. In addition, in cases involving discharge either party shall have the right to present no more than two witnesses. Such right shall not preclude the parties from jointly agreeing to interview additional witnesses as provided above.

The Formal Step A meeting must be held between the installation head or designee and the branch president or designee as soon as possible but no later than seven calendar days after the installation head receives the Joint Step A Grievance Form (unless the parties agree to an extension). The parties' representatives at Formal Step A shall have the authority to settle or withdraw grievances in whole or in part. Both parties must work together to ensure that each grievance is fully developed.

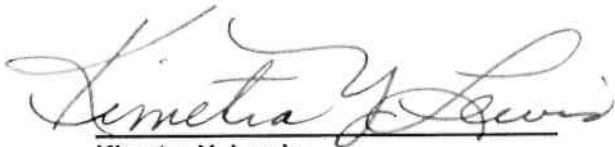
The union representative at the Formal Step A meeting shall discuss fully the union's position, violation alleged, and corrective action requested. Moreover,

the union is entitled to furnish written statements from witnesses or other individuals who have information pertaining to the grievance. Both parties are required to state in detail the facts and contract provisions relied upon to support their positions. The Postal Service is also required to furnish to the union, if requested, any documents or statements of witnesses as provided for in Article 17.3 and Article 31.3.

This instant grievance was appealed to the Formal Step A Level on September 10, 2015. The Formal Step A meeting was scheduled for September 16, 2015. On September 17, 2015, the Formal Step A Parties agreed to extend Formal Step A meeting until September 18, 2015.

Based on the PS Form 8190, there was no Formal Step A meeting.

Without any written argument from Management, the Dispute Resolution Team agreed to the decision stated above.



Kimetra Y. Lewis  
NALC Step B Representative



James Chandler  
USPS Step B Representative

Cc: Rio Grande District

#### Table of Contents

- PS Form 8190
- NALC Contentions
- Notice of Revocation of Driving Privileges
- PS Form 4584
- Grievant's Statement
- Employee Everything Report
- Route Carrier Daily Performance Reports
- Informal Step A Documents
- Request for Formal Step A Meeting
- Time Limit Extension
- End.