



RESOLVE



STEP B DECISION

Step B Team:

USPS:

Mike Goden

NALC:

Jim J. Ruetze

District:

Rio Grande

USPS Formal A:

Eric Cordova

NALC Formal A:

William McCain

Decision:

USPS Number:

Grievant:

Branch Grievance Number:

Branch:

Installation:

Delivery Unit:

State:

Incident Date:

Informal Step A Meeting:

Formal Step A Meeting:

Received at Step B:

Step B Decision Date:

Issue Code:

NALC Subject Code:

RESOLVE

G11N-4G-C 1737 0873

Esteban Ramirez

421-078-17

421

San Antonio

Thousand Oaks

TX

01/19/2017

02/01/2017

02/09/2017

02/17/2017

03/20/2017

41.3130

100271

ISSUE:

Did management violate Article 41.2.b.4 of the National Agreement by denying the grievant the right to work the hours and days of his opted-for assignment? If so, what remedy is appropriate?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation of Article 41.2.b.4 of the National Agreement. Grievant Esteban Ramirez (EIN 04432003) is compensated \$200.00 for the violation. This payment has been completed at Step B through GATS. No further action is necessary at the unit to process this payment. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Esteban Ramirez, a City Carrier Assistant (CCA) assigned to Thousand Oaks Station in San Antonio, TX with relative standing of 09/12/2015. On 01/10/2017 the grievant submitted a request to hold down ("opt") route 3218 at Thousand Oaks, which was anticipated to be vacant for more than five days. As the "senior" opting employee, the grievant was awarded the opt beginning on 01/16/2017. When he reported for work on 01/19/2017 the supervisor told him he was in danger of working "too many" days in a row and needed to be off either that day or the next. The grievant went home that day, even though route 3218 was not scheduled off on either day.

The union filed this grievance to challenge management's requirement for the grievant to take a regularly scheduled day off without pay. Unable to achieve a resolution through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends the nonscheduled day for route 3218 was 01/14/2017, which was the Saturday before the opt began. The opted-for assignment was not scheduled for another nonscheduled day (beside Sunday) until 01/23/2017, meaning the grievant was entitled to work every day from Monday, 01/16/2017 through Saturday, 01/21/2017. Management's

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decision to prevent him from working on 01/19/2017 deprived him of hours he was entitled to, some of which would have been regular overtime hours and some of which would have been penalty overtime hours. The union contends management in San Antonio has already been instructed through previous DRT decisions to cease & desist failing to honor opts.

The union requests that the grievant be compensated \$226.45 for the lost work opportunity, in addition to a \$100.00 remedy to encourage future contract compliance.

Management met at Formal Step A, but no contentions were included in the case file.

The DRT reviewed the case file and determined the grievant was the successful opting employee for route 3218, and as such was entitled to work the hours and days of the vacancy. That vacancy continued through 01/19/2017, so the grievant should have worked that day instead of being sent home. The appropriate remedy in this case is to compensate the grievant for the hours he should have worked but couldn't because of management's instruction. Page 41-15 of the JCAM provides the following concerning the appropriate remedy in situations like this:

***Remedies and Opting.** Where the record is clear that a PTF or city carrier assistant was the senior available employee exercising a preference on a qualifying vacancy, but was denied the opt in violation of Article 41.2.B.4, an appropriate remedy would be a "make whole" remedy in which the employee would be compensated for the difference between the number of hours actually worked and the number of hours he/she would have worked had the opt been properly awarded.*

Based on its review of the case file, the DRT mutually agreed to the decision and remedy above. Another cease & desist instruction is unnecessary because the prior decisions in the file make it clear that local management has been made aware of its obligations.



Mike Goden
USPS Step B Representative



Jim J. Ruetze
NALC Step B Representative

cc:

LR Manager, SW Area
NALC Region 10 NBA
Rio Grande District HR Manager
Rio Grande District LR Manager
Management Formal Step A Designee

NALC Branch President
NALC Formal Step A Designee
Manager, Rio Grande District
Postmaster, San Antonio, Texas
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Employee Everything Report
Grievant Statement
Opt Request Form

Prior Step B Decisions
Prior Grievance Settlements
Request for Formal Step A Meeting
Request for Information/Meeting