

RESOLVE



STEP B DECISION

Step B Team:
USPS:
Mike Goden
NALC:
Louise K. Jordan

District:
Rio Grande

USPS Formal A:
Frank Cazares
NALC Formal A:
Ralph Rodriguez

Decision:
USPS Number: **G16N-4G-C 1763 1129**
Grievant: **Patrick Loera**
Branch Grievance Number: **421-782-17**
Branch: **421**
Installation: **San Antonio**
Delivery Unit: **Leon Valley**
State: **TX**
Incident Date: **08/04/2017**
Informal Step A Meeting: **08/19/2017**
Formal Step A Meeting: **No Meeting**
Received at Step B: **12/28/2017**
Step B Decision Date: **01/24/2018**
Issue Code: **41.3130**
NALC Subject Code: **600198**

ISSUE:

Did management violate Article 41.2.B of the National Agreement by not allowing the grievant to work his full hours on his opt/hold-down on route 3830 on August 04, 2017? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation when management did not work the grievant the scheduled hours of his opt/hold-down assignment on August 04, 2017. Carrier Loera (04571739) is awarded a lump sum payment in the amount of \$197.88; payment was completed at Step B. See DRT explanation.

EXPLANATION: The grievant in this case is Patrick Loera, a city carrier assistant with a relative standing dating to 01/21/2017. The grievant put in a bid for an opt on route 3830 on July 12, 2017, while he was on an opt for route 3836 that was to end prior to the beginning of the opt start date for route 3830. The grievant worked the hours of that opt on route 3830 starting July 22, 2017, until at least Friday, August 04, 2017, when he was sent home after clocking in. The clock-ring was deleted.

The union contends the grievant requested an opt/hold-down on route 3830 on July 12, 2017, and management in fact granted the opt/hold-down request which started on July 22, 2017. On Friday, August 04, 2017, the grievant was instructed by management not to work. The union contends this is a violation of Article 41.2.B and the grievant his entitled to work the full hours of the route opt/hold-down and should be made whole by paying him 0.42 hours at the regular rate and 7.58 hours at the OT rate for Friday, August 04, 2017.

Management contends the grievant was not on an opt/hold-down for route 3830. The grievant submitted a request for an opt/hold-down on July 12, 2017, while on an opt/hold-down on route 3836. Management contends a carrier on an opt for a reserve regular assignment must work the assignment for its duration and is not eligible to opt on any other

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel, Room 1059
San Antonio, TX 78284-9998
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

assignments for the duration of the opt. Once off the opt route 3836, the carrier failed to submit any other opt for route 3830. Management contends the grievant was only placed on route 3830 for consistency. The grievant was not on an opt and is only guaranteed 4 hours for being scheduled.

The DRT agreed the case file evidenced a violation. Article 41.2 states the following, in relevant part:

4. Part-time flexible letter carriers may exercise their preference by use of their seniority for vacation scheduling and for available full-time craft duty assignments of anticipated duration of five (5) days or more in the delivery unit to which they are assigned. City carrier assistants may exercise their preference (by use of their relative standing as defined in Section 1.f of the General Principles for the Non-Career Complement in the Das Award) for available full-time craft duty assignments of anticipated duration of five (5) days or more in the delivery unit to which they are assigned that are not selected by eligible career employees.

5. A letter carrier who, pursuant to subsections 3 and 4 above, has selected a craft duty assignment by exercise of seniority shall work that duty assignment for its duration.

Duration of Hold-Down. *Article 41.2.B.5 provides that once an available hold-down position is awarded, the opting employee "shall work that duty assignment for its duration." An opt is not necessarily ended by the end of a service week. Rather, it is ended when the incumbent carrier returns, even if only to perform part of the duties—for example, to case but not carry mail.*

Page 41-17 of the JCAM:

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.*

In those circumstances in which a PTF or city carrier assistant worked forty hours per week during the opting period (or forty-eight hours in the case of a six day opt), an instructional "cease and desist" resolution would be appropriate. This would also be an appropriate remedy in those circumstances in which a reserve letter carrier or an unassigned letter carrier was denied an opt in violation of Article 41.2.B.3.

In circumstances where the violation is egregious or deliberate or after local management has received previous instructional resolutions on the same issue and it appears that a "cease and desist" remedy is not sufficient to insure future contract compliance, the parties may wish to consider a further, appropriate compensatory remedy to the injured party to emphasize the commitment of the parties to contract compliance. In these circumstances, care should be exercised to insure that the remedy is corrective and not punitive, providing a full explanation of the basis of the remedy.

Management cited the following excerpt from Article 41.2 found on page 41-12 of the JCAM:


RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel, Room 1059
San Antonio, TX 78284-9998
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

However, as is the case with any opt, a carrier on an opt for a Reserve Regular assignment must work the assignment for its duration and is not eligible to opt on any other assignments for the duration of the opt.

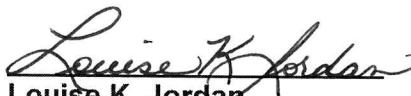
The claim made by management, two weeks after awarding the opt on route 3830 to Carrier Loera, is that he was not allowed to opt on route 3830 since he opted on that route while he was serving an opt on route 3836 at the time he submitted his request. Aside from the language above referring to reserve regular assignments, which was not the type of assignment available in this case, the DRT agreed the grievant did not fail to work his assignment on route 3836 for its duration prior to being assigned to route 3830.

The vacancy on route 3836 ceased to exist the day prior to the opening of the vacancy on route 3830. The language above does not preclude a CCA from opting on a route that is to become vacant prior to it becoming vacant as Carrier Loera did in this case. It also does not preclude the CCA from doing so while serving on another assignment that is known to be ending prior to that upcoming vacancy. Stating Carrier Loera was not allowed to opt on route 3830 was incorrect.

The case file evidenced management did not work the grievant for the scheduled hours of the opted assignment on August 04, 2017. The grievant was made whole by way of a lump sum payment for the hours not worked on his opt. Based on the information contained in the case file, the DRT mutually agreed to the lump sum payment on page one of this decision.



Mike Goden
USPS Step B Representative


Louise K. Jordan
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Table of Contents
Request for Information
Request for Informal Step A
Request for Formal Step A
Hold-down Request
Leon Valley Weekly Schedule

Employee Everything Report
Hours Analysis Report
Overtime Alert Report
Management Contentions
Union Contentions

cc: **Area Manager of Labor Relations, Southern Area**
NALC NBA, Region 10
District Manager, Rio Grande District
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Postmaster
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File

Payout Request History for Grievance

17691129

[HELP](#)

no data

<p><u>Not Processed By Payroll</u></p> <p><input checked="" type="checkbox"/> New (Not yet sent to Payroll)</p> <p><input checked="" type="checkbox"/> Pending (Not back from Payroll)</p> <p><input checked="" type="checkbox"/> Submitted (Received acknowledgment from Payroll, awaiting processing)</p>	<p><u>Payroll Processed</u></p> <p><input checked="" type="checkbox"/> Paid (Back from Payroll without error)</p> <p><input checked="" type="checkbox"/> Payroll Error (Back from Payroll with error)</p>
--	--

New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested	
New		2	\$197.88	LOERA	PATRICK	9916	PP16 FY2017	BBVXZ0	01/26/2018	<input type="button" value=" Details"/>
Total New: \$197.88										
Total Pending: \$0.00										
Total Submitted: \$0.00										

Paid and Errors from Finance

Status	Error or Warning	App Seq	Request Amount	Amount Paid	PP Paid	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested
No Data											
Total Paid: \$0.00											
Total Error: \$0.00											