



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1924 3102
Rose Barner	Grievant:	Robert Zamora, Jr.
NALC:	Branch Grievance Number:	421-499-19
Jim Ruetze	Branch:	421
District:	Installation:	San Antonio
Rio Grande	Delivery Unit:	Beacon Hill
	State:	TX
	Incident Date:	04/11-12/2019
USPS Formal A:	Informal Step A Meeting:	04/18/2019
Leo Rodriguez	Formal Step A Meeting:	05/03/2019
NALC Formal A:	Received at Step B:	05/10/2019
Rigoberto Hidalgo	Step B Decision Date:	05/23/2019
	Issue Code:	41.3130
	NALC Subject Code:	100271

ISSUE:

Did management violate Article 41 of the National Agreement by denying the grievant the right to work the hours of his opted-for assignment on 04/11-12/2019? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation of Article 41 of the National Agreement, which requires management to schedule the successful opting employee according to the hours and days of the vacant assignment. The employee will be paid a lump sum of \$292.66. This payment has been processed at Step B through GATS. Management will adhere to the opting provisions of Article 41, Sections 2.B.4 and 2.B.5. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Robert Zamora, Jr., a City Carrier Assistant (CCA) assigned to Beacon Hill Station in San Antonio, TX. During the week of 04/06/2019 the grievant had an "opt" on route 28095 and was instructed on 04/11/2019 to take the next two days off. In doing so, management removed the grievant from the awarded opt hold-down.

The union filed this grievance to challenge management's decision to involuntarily remove the grievant from the opted assignment on the days in question. 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 CCA Robert Zamora, Jr. has a hold down (Opt) on route 28095 at Beacon Hill Station. Robert Zamora, Jr. was scheduled to come in and deliver his route on Thursday, 04/11/2019 and Friday, 04/12/2019, which were regular scheduled days. On the morning of 04/11/2019 management instructed him to take the next two days off. In doing so they removed Robert from the opt assignment. The union requests management cease and desist violating

Article 41.2.B.4. The union further requests the grievant be compensated for 8 hours at the straight rate, \$144.00 and 8 hours at the overtime rate, \$216.00. In addition, the union requests a monetary remedy of \$250.00 in order to persuade management they must comply with the Step B decisions included in the case file.

Management contends the CCAs are not guaranteed 8 hours, but are guaranteed to carry at least 4 hours of their opted hold down.

The **DRT** reviewed the case file and determined the grievant was the successful opting employee for route 28063, and as such was entitled to work the hours and days of the vacancy. The appropriate remedy in this case is to compensate the grievant for the hours he should have worked but did not because of management's instruction.

Article 41.2.B 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.

Moreover, opting is not "restricted to employees with the same schedule as the vacant position" (H1N-1J-C 6766, April 17, 1985, M-00843). Rather, an employee who opts for a hold-down assignment assumes the scheduled hours and non-scheduled day of the opted assignment. (See "Schedule Status and Opting".)

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 discusses remedies for opting violations:

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

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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.

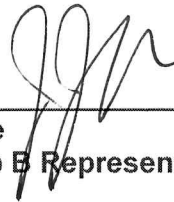
In circumstances where the violation is egregious or deliberate or after local management has received previous instructional resolutions on the same issue and it appears that a "cease and desist" remedy is not sufficient to insure future contract compliance, the parties may wish to consider a further, 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. (Emphasis Added)

The case file evidenced management did not work the grievant for the scheduled hours of the opted assignment. The grievant was made whole by way of a lump sum payment for that time.

Based on its review of the case file, the DRT mutually agreed to the decision and remedy above.



Rose Barner
USPS Step B Representative



Jim 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
DRT File

Grievance File Contents

PS Form 8190
Union Contentions (6 pgs)
Employee Statements (2pgs)
Employee Everything Report (2 pgs)
Carrier Schedule (2 pgs)

Work hour Workload Report (2 pgs)
Informal Step A Meeting Request
Formal Step A Meeting Request
Prior Grievance Resolutions (40 pgs)

Payout Request History for Grievance

19243102

[HELP](#)

no data

Not Processed By Payroll

- New (Not yet sent to Payroll)
- Pending (Not back from Payroll)
- Submitted (Received acknowledgment from Payroll, awaiting processing)

Payroll Processed

- Paid (Back from Payroll without error)
- Payroll Error (Back from Payroll with error)

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Show History

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	\$292.66	ZAMORA	ROBERT	1976	PP8 FY2019	YSZ1BC	05/24/2019	Details
Total New: \$292.66										
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											