



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G11N-4G-C 1746 5917
Mike Goden	Grievant:	Keith Austin
NALC:	Branch Grievance Number:	421-298-17
Jim Ruetze	Branch:	421
	Installation:	Converse
District:	Delivery Unit:	MPO
Rio Grande	State:	TX
	Incident Date:	03/20/2017
USPS Formal A:	Informal Step A Meeting:	04/27/2017
Luis Colon	Formal Step A Meeting:	05/09/2017
NALC Formal A:	Received at Step B:	05/16/2017
Richard Gould	Step B Decision Date:	06/20/2017
	Issue Code:	13.4130
	NALC Subject Code:	100925

ISSUES:

Did management violate Articles 14 and/or 19 of the National Agreement by forcing the grievant to work beyond his medical limitations? If so, what is the remedy?

Did management violate Article 5 and/or 19 by requiring the grievant to apply for FMLA in order to validate his medical restrictions? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management will adhere to the medical restrictions imposed by the grievant's physician. There was no requirement to apply for FMLA protection in order to validate the medical restrictions imposed by the grievant's doctor. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Keith Austin, a full time regular letter carrier assigned to the Main Post Office in Converse, TX with seniority dating to 07/03/2010. He has medically imposed restrictions limiting him to no more than eight hours of work in a day. Before management would honor those restrictions, however, the postmaster imposed a requirement that the grievant apply for FMLA.

The union filed this grievance to protest management's refusal to honor the grievant's medical restrictions. 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 management acted outside its authority by refusing to abide by the grievant's restrictions pending approval of an FMLA application. The grievant was able to perform all of the duties of his position, but was medically restricted from working overtime. Because there was no anticipated absence, there was no reason to seek FMLA protection. The union also contends there was already a grievance filed on this issue in 2015 that was resolved with a cease and desist instruction. The settlement of that grievance also said, "Management will ensure that all medical restrictions are strictly adhered to." The union also

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contends the grievant worked overtime on a number of occasions because management ignored his restrictions.

The union requests that management cease and desist failing to honor employees' medical restrictions. The union also requests that management cease and desist requiring FMLA approval prior to honoring medical restrictions. The union also requests a compensatory remedy of \$1,500.00 to emphasize the parties' commitment to making sure all employees can expect a safe working environment.

Management met at Formal Step A, but provided no contentions for the DRT to consider.

The DRT reviewed the case file and determined without rebuttal from management, the union's position had merit. Management was not within its rights to disregard the grievant's medical restrictions. The current Postmaster General, Megan Brennan, issued a directive in 2012 (when she was Chief Operating Officer) to all Area Vice Presidents concerning the need to abide by employees' medical restrictions:

When craft employees provide medical documentation indicating that they have a disability and cannot work more than eight hours, or that they require other accommodations that may impact their ability to deliver the mail in an efficient manner, it can be challenging for a manager with limited resources who is trying to move the mail. However, the answer is neither to work disabled employees outside of their restrictions, nor to discipline them for being unable to complete their route. Significant liability may result from those courses of action.

Based on its review of the case file, the DRT mutually agreed that management must honor the medical restrictions of employees. The DRT was unable to agree on a monetary remedy in this case.



Mike Goden
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, Converse, Texas
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Medical Restrictions
Prior Grievance Resolution
PS Form 1767
Instructions from PM to Grievant
Grievant's Statement
Union interview of PM Colon
Union Interview of OHNA Mary Lindsey
Grievant's Clock Rings

M-00487
M-01360
M-01807
ELM 513 Excerpt
29 CFR 825.306
Department of Labor Q & A (FMLA)
Snow Award (C-18906)
Das Award (C-29873)
Request for Information
Request for Formal Step A Meeting