



RESOLVE



STEP B DECISION

Step B Team:

USPS:
Rose Barner
 NALC:
Jim Ruetze

District:
Rio Grande

Decision: **RESOLVE**
 USPS Number: **G16N-4G-C 2037 5606**
 Grievant: **Class Action**
 Branch Grievance Number: **421**
 Branch: **421-971-20**
 Installation: **Eagle Pass**
 Delivery Unit: **Main Post Office**
 State: **TX**
 Incident Date: **08/08/2020-08/14/2020**
 Informal Step A Meeting: **08/21/2020**
 Formal Step A Meeting: **08/28/2020**
 Received at Step B: **08/31/2020**
 Step B Decision Date: **09/17/2020**
 Issue Code: **08.5450**
 NALC Subject Code: **120051**

ISSUE: Did management violate Articles 8.5.D and 5.G of the National Agreement when working non-Overtime Desired List (ODL) and Work Assignment (WA) carriers on and off their routes by improperly assigning overtime during the week of August 8-14, 2020? 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 the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. Non-carriers who were improperly assigned to work overtime were compensated an additional 50% of their straight time rate. ODL carriers were compensated for the missed overtime opportunities at the rate of pay they would have earned if they had performed the work. Management shall assign overtime consistent with the provisions of Article 8.5. All payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

EIN	EMPLOYEE	REMEDY	EIN	EMPLOYEE	REMEDY
02328196	Venegas, M	\$236.00	03563531	Rodriguez, A	\$75.52
04299444	Herrera, C	\$29.50	02378909	Martinez, G	\$77.44
02194666	Perez, R	\$66.67	04233586	Rodriguez, C	\$43.66
04344813	Dunn, L	\$142.93	04299439	Rodriguez, G	\$88.50
04212366	Gomez Jr, C	\$79.65	04134089	Chico, J	\$104.58
04226476	Valdez Jr., J	\$60.77			

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at Eagle Pass Main Office, Eagle Pass, Texas during the week of August 8-14, 2020. During the week cited, management assigned overtime to non-ODL and WA carriers off their assignments while ODL carriers were available at the regular overtime rate, and ODL carriers were available at the penalty overtime rate.

The union contended at Formal Step A management violated Article 8 of the National Agreement, 8.5.D and 8.5.G of the Joint Contract Administration Manual (JCAM) and M-00884 when they did not maximize the ODL and mandated non ODL/WA carriers to carry overtime on their own routes and carry auxiliary assistance on other routes during the work week of August 8-14, 2020 prior to fully utilizing the ODL and City Carrier Assistants (CCAs).

The union requested all ODL and CCA carriers be awarded overtime and penalty overtime. The union requested an award of 50% at the straight rate of pay as the remedy requested by the union for the aggrieved non ODL and/or WA.

Management at Formal Step A contended Carlos Herrera is averaging 6 hours and 20 minutes on his route as demonstrated performance, but on Wednesday he used 54 minutes in the office and was under 8.00 hours. He had more mail and packages on the next day, August 13, and finished his route 30 minutes earlier. Management contended on Monday, August 12 carrier Joe Hernandez, Route C012, had to leave which was an unforeseen circumstance that required mandating. Management further stated that on Thursday, August 13 Mary Venegas was brought in to avoid having carriers past 19:00 for safety issues. Without 8 hours taken by Venegas those carriers would have worked past 19:00 with the limited ODL staffing available on that day.

The DRT reviewed the case file and determined there was a violation of Article 8.5 for the week of August 8-14, 2020 when the overtime among full-time carriers were not assigned in accordance with the provisions of Article 8.5. Overtime for non-ODL carriers *on their own assignments* is governed by the Letter Carrier Paragraph, which is found on pages 8-14 and 8-15 of the JCAM:

***The "Letter Carrier Paragraph."** For many years Article 8.5.C.2.d also gave management the right to require a letter carrier working on his/her own route on a regularly scheduled day to work mandatory overtime rather than assigning the overtime to a carrier from the Overtime Desired List. However, in the Overtime Memorandum first negotiated as part of the 1984 National Agreement, the Postal Service and the NALC added the following qualification, known as the "letter carrier paragraph."*

In the Letter Carrier Craft, where management determines that overtime or auxiliary assistance is needed on an employee's route on one of the employee's regularly scheduled days and the employee is not on the overtime desired list, the

*employer will seek to utilize auxiliary assistance, when available, rather than requiring the employee to work mandatory overtime.
(The complete text of this memorandum is reprinted at the end of this article.)*

National Arbitrator Mittenthal ruled in H4N-NA-C 21, June 26, 1986 (C-06297), that the letter carrier paragraph is an enforceable obligation.

Implementing Memorandum on "Letter Carrier Paragraph." A memorandum of understanding signed December 20, 1988 (M-00884) further explained the requirement to seek to use auxiliary assistance before requiring letter carriers not on the ODL or Work Assignment List to work overtime on their own route on a regularly scheduled day. Management must seek to use all of the following to provide auxiliary assistance:

- *part-time flexibles at the straight-time or regular overtime rate*
- *city carrier assistant employees at the straight-time or regular overtime rate*
- *available full-time regular employees such as unassigned or reserve regulars at the straight-time rate*
- *full-time carriers from the Overtime Desired List at the regular overtime rate*

However, the memo states that management does not have to use ODL carriers to provide auxiliary assistance if such an assignment would mean that the ODL carriers would be working penalty overtime. In that limited situation—if no auxiliary assistance is available without going into penalty overtime—management can require full-time regular carriers not on the Overtime Desired List to work overtime on their own routes on a regularly scheduled day. Remember that this limited exception applies only when a full-time non-ODL letter carrier is required to work overtime on his/her own assignment on a regularly scheduled day.

The assignment of overtime to non-ODL carriers off their assignments or on a non-scheduled day is also discussed on page 8-15:

*Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment, management **must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime** (Article 8.5.D). [Emphasis Added]*

For Work Assignment carriers, the following JCAM language from page 8-22 addresses the assignment of overtime off their assignment or on a non-scheduled day:

The Work Assignment List was established for full-time letter carriers who only want to work overtime on their own assignment on regularly scheduled days. Signing up for the Work Assignment overtime does not create any entitlement or obligation to work overtime on a non-scheduled day. For purposes of overtime on

a non-scheduled day or on other than their own assignment, carriers on the Work Assignment list are treated exactly the same as any other full-time carriers not on the Overtime Desired List—They may only be required to work overtime under the provisions of Article 8.5.D. [Emphasis in Original].

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



Rose Barner
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:

LR Manager, Southern Area
NALC Region 10 NBA
Rio Grande District HR Manager
Rio Grande District LR Manager
USPS Formal Step A Jose Aguilera

NALC Branch President
NALC Formal Step A Jorge Valdez
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions
Management Contentions
Carrier Schedule
Overtime Alert Report
Employee Moves Report
Employee Everything Report
ODL
Carrier Daily Analysis Report
JCAM Excerpts
Formal/Informal A Step Meeting