

RESOLVE



STEP B DECISION

Step B Team:	Decision:	<u>RESOLVE</u>
USPS:	USPS Number:	G16N-4G-C 1810 0380
Alex Zamora	Grievant:	Abel Sanchez
NALC:	Branch Grievance Number:	421-30-18
Jim Ruetze	Branch:	421
	Installation:	Eagle Pass
District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	12/21/2017
	Informal Step A Initiated:	01/11/2018
	Formal Step A Meeting:	01/24/2018
USPS Formal A:	Date Received at Step B:	01/26/2018
Ernesto Saucedo	Step B Decision Date:	02/07/2018
NALC Formal A:	Issue Code:	10.5000
Gilberto Martinez	NALC Subject Code:	507399

ISSUE:

Did management violate Articles 10, 19, and ELM section 512 when they charged the grievant with AWOL in lieu of requested annual leave? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. In the circumstances described in this case file, the union did not meet its burden to prove a violation. There was insufficient basis to assume the grievant's annual leave request for 12/18/2017 was approved. Nonetheless, management will properly process PS Forms 3971 in the future according to the ELM 512.422 language below. See the DRT Explanation.

EXPLANATION:

The grievant in this case is Abel Sanchez, a full time regular letter carrier assigned to the Eagle Pass, TX Main Post Office with seniority dating to 12/02/1989. On 11/07/2017 the grievant submitted a PS Form 3971 requesting Annual Leave on 12/18/2017. According to the PS Form 3971 included in the file, it was signed by a supervisor on 11/07/2017, but no other management signatures appear on the form.

When his 3971 was not returned "disapproved," the grievant assumed his request was approved and took the day off. Management charged the grievant with being Absent Without Leave (AWOL), which resulted in a shorted check.

The union filed this grievance to challenge management's refusal to pay the grievant for the Annual Leave he took. Unable to resolve the dispute through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends the grievant submitted a PS Form 3971 requesting annual leave for 12/18/2017. The union contends management did not return the PS Form 3971 showing approval or disapproval. The union contends the grievant only glanced at the schedule and notice that a CCA was schedule for his route on 12/18/2017, so since he had not received a written disapproval he assumed his annual leave had been approved. The union requests the grievant be reimbursed his 8 hours at the overtime rate.

Management contends when the grievant submitted his request for annual leave he was told by the supervisor that it was disapproved due to him working as a 204b higher level that day. Management also contends that the grievant has worked on and off on higher level for the past eight years and he is aware during the holiday season annual leave is not approved. Management also contends that in order for the grievant to notice that CCA was scheduled to work his route he would have had to flip past the first page of the schedule, which includes his name with the initials "HL" ("Higher Level," or Acting Supervisor) in the 12/18/2017 block. This clearly indicates he had not been approved for leave; what's more, the grievant was verbally informed his leave had been disapproved. It is also management's contention the grievant was just trying to extend his already long weekend and wanted to add 12/18/2017 (Monday) as an extra day.

The DRT reviewed the case file and determined the grievant's explanation for taking the day off was not based exclusively on the absence of a written disapproval on his 3971. According to the grievant's statement and the union's contentions, the grievant sought confirmation that he was off by "glancing" at the schedule that showed a CCA assigned to his route. Management's unrefuted contention in the file was that the grievant would have to have skipped past the page of the schedule that included his own name in order to "glance" at the CCA schedule.

While management has an obligation to indicate on the 3971 if a request was disapproved, the DRT agreed the grievant did not rely solely on the absence of the disapproved 3971 to conclude his leave had been approved. His explanation for having noticed a CCA was scheduled on his route does not support a conclusion that he wasn't working at all. Another carrier is scheduled on his route every time he works as a 204B acting supervisor, which appears to have been a common occurrence. Accordingly, the DRT could not agree the grievant had an implicit right to take the day off solely by virtue of not having his 3971 returned "disapproved."

Relevant language from the ELM for this case are as follows:

512.4 Authorizing Annual Leave

512.41 Requests for Annual Leave

512.411 General

Except for emergencies, annual leave for all employees except postmasters must be requested on PS Form 3971 and approved in advance by the appropriate supervisor. Leave requests from rural carriers must be approved in accordance with Article 10 of the USPS-NRLCA National Agreement.

512.42 PS Form 3971 Request for or Notification of Absence

512.421 Purpose

Request for annual leave is made in writing, in duplicate, on PS Form 3971.

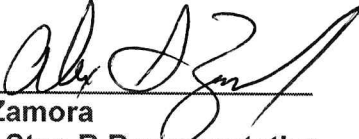
512.422 Approval or Disapproval

The supervisor is responsible for approving or disapproving the request for annual leave by signing PS Form 3971, a copy of which is given to the employee. If a supervisor does not approve a request for leave, the Disapproved block on PS Form 3971 is checked and the reasons given in writing in the space provided. When a request is disapproved, the granting of any alternate type of leave, if any, must be noted along with the reasons for disapproval. AWOL determinations must be similarly noted.

512.423 Retention and Disposal Period

Forms 3971 are retained by the installation head for 2 years from the date the leave is taken or disapproved and are then destroyed. (Documents that become a part of a disciplinary file or administrative proceeding will be disposed of with that file.)

Based on the contents of the file, the DRT mutually agreed the appropriate resolution is on page one of this decision.



Alex Zamora
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Union Contentions
Routing Slip
Time Limit Extensions
Request for Formal A Meeting
PS Form 3971
JCAM Excerpt

Weekly Schedule
Annual Leave 2017 Posting
Grievant's Statement
Management Contentions
Informal Step A Request
Employee Everything Report

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