



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1840 0828
Robin Gutman	Grievant:	Ricardo Perez
NALC:	Branch Grievance Number:	421-912-18
Louise K. Jordan	Branch:	421
	Installation:	Eagle Pass
District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	08/08/2018
	Informal Step A Meeting:	08/22/2018
	Formal Step A Meeting:	09/12/2018
USPS Formal A:	Received at Step B:	09/17/2018
Ernesto Saucedo	Step B Decision Date:	09/20/2018
NALC Formal A:	Issue Code:	10.0780
Gilberto Martinez	NALC Subject Code:	100003

ISSUE:

Did management violate Article 10 of the National Agreement when they placed Ricardo Perez in an AWOL (Absent Without Leave) status and denied his sick leave request on 08/08/2018? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The grievant will be given ten business days from receipt of this decision to provide management with acceptable medical documentation in accordance with the ELM (Employee and Labor Relations Manual) 513.364. The documentation should provide an explanation of the nature of the employee's illness or injury sufficient to indicate to management that the employee was unable to perform his normal duties for the period of eight hours on 08/08/2018. If the employee provides the documentation management will pay the employee sick leave for the hours of incapacitation as stated on said documentation. If the employee fails to provide the documentation then the AWOL status will stand. The parties may mutually agree to extend the ten days, if needed.

EXPLANATION:

The grievant in this case is Ricardo Perez, a full time letter carrier with 18 years of service assigned to the Main Post Office in Eagle Pass, Texas. On 05/12/2018, Mr. Perez submitted a PS Form 3971 (Request for or Notification of Absence) to management. The employee requested eight hours of sick leave for a doctor's appointment on 08/08/2018. Management disapproved the PS Form 3971 and asked the employee to provide proof of his appointment. On the weekly schedule the grievant was scheduled to work on 08/08/2018. The Employee Everything Report shows the grievant was charged eight hours of AWOL on 08/08/2018.

The union filed this grievance to protest this action. 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 Mr. Perez made management aware on 05/12/2018 that he needed to be off for eight hours of sick leave on 08/08/2018. The union contends that management disapproved the PS Form 3971 based on the fact that the grievant failed to put the hour of the appointment on the PS Form 3971, but he did. Three months later management put the grievant on the schedule for 08/08/2018. The union contends the carrier did not come to work but attended his appointment since it pertained to his health and well-being. Management failed to pay the grievant. The union goes on to say that over the years many questions have arisen between management and the union of what acceptable documentation is and when it is deemed necessary for the good of the service. The union asks that the DRT team clarify this for them.

The union requests the grievant be made whole and reimbursed his docked pay and paid an additional eight hours at the overtime rate to pay for any late fees that his reduction in pay may have caused.

Management contends Mr. Perez was told the day he submitted the PS Form 3971 he would need to provide some sort of documentation to substantiate his doctor's appointment. Management contends the employee stated he did not have to because he is not on restricted sick leave. Management contends they have an issue with this employee asking for eight hours of sick leave for a doctor's appointment. Management contends there have been two other instances when this same employee asked for eight hours of sick leave for a doctor's appointment but then was just at home for one of them and one time he actually returned to the Post Office for a luncheon. Management contends when they ask the employee about it he states, "I have the hours to use and I want and need eight hours."

The DRT reviewed the case file and determined the file does evidence that management disapproved the PS Form 3971 and asked the grievant for some form of documentation. The file does not evidence that any documentation was submitted. Based on the file it appears to the team that there may be some confusion as what is considered acceptable documentation. The team refers both parties to the ELM (Employee and Labor Relations Manual) Section 513.36.

Section 513.36 covers when documentation is required and what is acceptable:

513.36 Sick Leave Documentation Requirements

513.361 Three Days or Less

*For periods of absence of 3 days or less, supervisors **may** accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work or need to care for a family member is required only when the employee is on restricted sick leave (see 513.39) **or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.** Substantiation of the family relationship must be provided if requested. (Emphasis added)*

513.362 Over Three Days

For absences in excess of 3 days, employees are required to submit medical documentation or other acceptable evidence of incapacity for work or of need to care for a family member and, if requested, substantiation of the family relationship.

513.363 Extended Periods

Employees who are on sick leave for extended periods are required to submit at appropriate intervals, but not more frequently than once every 30 days, satisfactory evidence of continued incapacity for work or need to care for a family member unless some responsible supervisor has knowledge of the employee's continuing situation.

513.364 Medical Documentation or Other Acceptable Evidence

When employees are required to submit medical documentation, such documentation should be furnished by the employee's attending physician or other attending practitioner who is performing within the scope of his or her practice. The documentation should provide an explanation of the nature of the employee's illness or injury sufficient to indicate to management that the employee was (or will be) unable to perform his or her normal duties for the period of absence. Normally, medical statements such as "under my care" or "received treatment" are not acceptable evidence of incapacitation to perform duties. Supervisors may accept substantiation other than medical documentation if they believe it supports approval of the sick leave request.

513.365 Failure to Furnish Required Documentation

If acceptable substantiation of incapacitation is not furnished, the absence may be charged to annual leave, LWOP, or AWOL.

In response to the inquiry of both parties, at the lower level, as to when management can ask for documentation or if management can ask when an appointment is and inquire for how long. The team again refers the parties to the ELM.

Section 513.3 of the ELM concerns authorizing sick leave. Section 513.32 in relevant part is below:

513.32 Conditions for Authorization

Medical, dental, or optical examination or treatment: *If absence is necessary during the employee's regular scheduled tour.*

The employee is eligible to use sick leave for medical examination or treatment. In this case, the grievant sought eight hours of sick leave to permit him to attend a medical appointment. The time for preparation and travel to the scheduled appointment, as well as time spent in the appointment are legitimate uses of sick leave. Because the grievant appeared to be requesting sick leave in excess of what would be required to accomplish those needs, the DRT agreed the supervisor's decision to require documentation was reasonable. Management may approve additional hours of a separate type of leave if the employee requests time beyond that needed to attend the appointment. Management has the right to manage the business and determine the needs of the service, and may deny hours of leave which are not medically necessary.

The JCAM (Joint Contract Administration Manual) page 3-1 covers management rights under the National Agreement:

ARTICLE 3 MANAGEMENT RIGHTS

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

A. To direct employees of the Employer in the performance of official duties;

B. To hire, promote, transfer, assign, and retain employees in positions within the Postal Service and to suspend, demote, discharge, or take other disciplinary action against such employees;

C. To maintain the efficiency of the operations entrusted to it;

D. To determine the methods, means, and personnel by which such operations are to be conducted;

E. To prescribe a uniform dress to be worn by letter carriers and other designated employees; and

F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

Employees should follow instructions of management as stated in Section 112.21 of Handbook M-41, City Delivery Carriers Duties and Responsibilities and as stated in the ELM Section 665.15:

112.21 *Obey the instructions of your manager.*

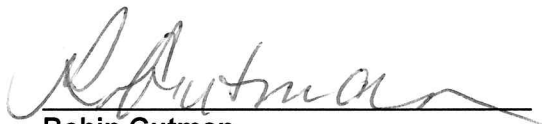
665.15 Obedience to Orders

Employees must obey the instructions of their supervisors. If an employee has reason to question the propriety of a supervisor's order, the individual must nevertheless carry out the order and may immediately file a protest in writing to the official in charge of the installation or may appeal through official channels.

The DRT agree management's decision to request documentation is supported by the ELM section 513.361 and documentation was requested for the protection of the interests of the Postal Service.

In this case the DRT agreed management's decision to require documentation, to support eight hours of leave for a medical appointment was not in violation of the National Agreement.

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



Robin Gutman
USPS Step B Representative



Louise K. Jordan
NALC Step B Representative

cc:
LR Manager, Southern Area
NALC Region 10 NBA
Rio Grande District HR Manager
Rio Grande District LR Manager
Management Formal Step A Designee

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Grievance File Contents

P.S. Form 8190	Employee Everything Report
Union Contentions (2 pages)	ELM page copies (6 pages)
Request to see steward	Step B (Northern NJ) (3 pages)
Request for Documentation	Management Contentions
Request for Formal A meeting	Restricted Sick Leave Letter
PS Form 3971	Time Limit Extension
Weekly Carrier Schedule (3 pages)	