

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

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RESOLVED



STEP B DECISION

Step B Team: Laura Maglaris
James Chandler

Decision: RESOLVED
USPS Number: G11N-4G-1602 2975
Grievant: Gilberto Martinez
Branch Grievance Number: 424-751-15
Branch Number: 421
Installation: Eagle Pass
Delivery Unit: MPO
State: Texas
Incident Date: 10/9/2015
Informal Step A Meeting Date: Unknown
Formal Step A Meeting Date: 10/29/2015
Date Received at Step B: 12/1/2015
Step B Decision Date: 12/15/2015
USPS Issue Code: 29.0000
NALC Issue Code: 508499
Original Step B Received Date:
Date Sent to Assisting Team:

District Grieving: Rio Grande

Formal Step A Parties:
Ernesto Saucedo, USPS
Gilberto Martinez, NALC

ISSUE: Did management violate Article 29 when they failed to accommodate the grievant by assigning him non-driving duties in the carrier craft or other crafts in accordance with Article 29, during the entire period his driver's license was suspended? If so, what is the appropriate remedy?

DECISION: The DRT **RESOLVED** this grievance. A violation of Article 29 occurred when management failed to provide 8 hours work or pay in lieu of on the dates of 9/30/2015, 10/1/2015 and 10/2/2015. The grievant will be made whole and management will process a pay adjustment as follows:

- 9/30/2015 Convert 6.89 hours AL to 6.89 hours Other Paid Leave (Code 86)
- 10/1/2015 Convert 4.62 hours AL to 4.62 hours Other Paid Leave (Code 86)
- 10/2/2015 Convert 6.39 hours LWOP to 6.39 hours Other Paid Leave (Code 86)

Pay adjustments must be processed within 14 calendar days' receipt of this decision and copied to the NALC Steward.

EXPLANATION: **NALC Formal Step A Position:** The Union contends management violated Article 29 by failing to assign non-driving duties to the grievant for the entire period his driver's license was suspended. The Union stated the grievant was provided

non-driving duties to satisfy their guarantees for a period of 40 days subsequent to the suspension of the grievant's driver's license until 9/30/2015, at which time the grievant was instructed to take leave and go home early on 9/30/2015, 10/1/2015 and 10/2/2015. The Union contends there were various carrier duties, as well as janitorial work available on these dates. The Union contends being forced to take Annual Leave and LWOP created a financial hardship on the grievant. The Union requested that all leave taken on 9/30/2015, 10/1/2015 and 10/2/2015 be restored and an additional monetary award of \$300.00 per day as compensation.

USPS Formal Step A Position: Management contends the grievant was allowed only 40 days to "fix this issue" per the Texas Department of Public Safety's "Notice of Suspension – Temporary Driving Permit" and since the grievant did not have the issue completely resolved with the court within those 40 days, management was no longer obligated to provide non-driving duties or pay in lieu of. Management further contends a search for work within the office was conducted, but there was no work available due to the actual and budgeted work hours of clerk and janitorial craft personnel.

DRT Explanation: Article 29 requires management to make every reasonable effort to reassign employees non-driving duties when their driving privileges have been revoked or suspended. In this case, it appears management did provide non-driving duties to the grievant prior to 9/30/2015, but ceased to provide non-driving duties or pay in lieu of on 9/30/2015, citing the 40-day limit specified in the Texas Department of Public Safety's "Notice of Suspension – Temporary Driving Permit". The 40-day limit is imposed by the State of Texas; however, there is no contractual requirement that the grievant's driving privileges be restored within any specific time frame.

JCAM, Page 29-4:

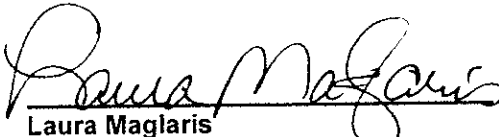
Every Reasonable Effort to Reassign. Even if a revocation or suspension of a letter carriers driving privileges is proper, Article 29 provides that, "every reasonable effort will be made to reassign the employee in non-driving duties in the employee's craft or other crafts." This requirement is not contingent upon a letter carrier making a request for non-driving duties. Rather, it is management's responsibility to seek to find suitable work.

National Arbitrator Snow held in I94N-4I-D 96027608, April 8, 1998 (C-18159), that management may not reassign an employee to temporary non-driving duties in another craft if doing so would result in a violation of other craft's agreement. **If it is not possible to accommodate temporary cross-craft assignments in a way that does not violate another craft's agreement, a letter carrier who is deprived of the right to an otherwise available temporary cross-craft assignment to a position in another craft must be placed on leave with pay until such time as he may return to work without violating either unions' agreement.** In accordance with Arbitrator Snow's award, in situations where city letter carriers temporarily lose driving privileges, the following applies:

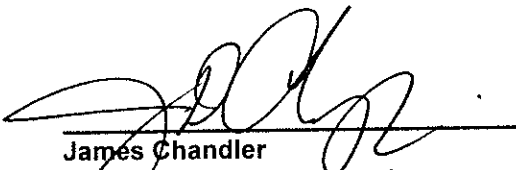
- Management should first attempt to provide non-driving city letter carrier craft duties within the installation on the carrier's regularly

scheduled days and hours of work. If sufficient carrier craft work is unavailable on those days and hours, an attempt should be made to place the employee in carrier craft duties on other hours and days, anywhere within the installation.

- If sufficient work is still unavailable, a further attempt should be made to identify work assignments in other crafts, as long as placement of carriers in that work would not be to the detriment of employees of that other craft.
- **If there is such available work in another craft, but the carrier may not perform that work in light of the Snow award, the carrier must be paid for the time that the carrier otherwise would have performed that work.**



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