

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

James Chandler
USPS Representative

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Kimetra Lewis
NALC Representative



RESOLVED



STEP B DECISION

Step B Team: Kimetra Lewis
James Chandler

Decision: RESOLVE
USPS Number: G11N-4G-C 14298816
Grievant: Class Action
Branch Grievance Number: 421-124-14
Branch Number: 421
Installation: San Marcos
Delivery Unit: 78666

District: Rio Grande
Deciding District: Dallas

State: Texas
Incident Date: 08/09/2014
Date Informal Step A Initiated: 09/06/2014
Formal Step A Meeting Date: No Meeting
Date Received at Step B : 09/18/2014
Step B Decision Date: 09/25/2014
USPS Issue Code: 08.5410
NALC Issue Code: 120051
Original Step B Received Date:
Date Sent To Assisting Team:

Formal Step A Parties
NALC: Edward Quinonez
USPS:

ISSUE: Did Management violate Article 8 of the National Agreement during August 9 – 15, 2014 by improperly working Non-Overtime Desired Letter Carrier without maximizing the Overtime Desire List? If so, what is the appropriate remedy?

DECISION: The Dispute Resolution Team has agreed to RESOLVE this grievance. A violation occurred. The following employees will be compensated at the appropriate pay rate to be entered at the Step B Level of the Grievance / Arbitration Procedure:

Non-Overtime Desired List Carriers

<u>Employee</u>	<u>EIN</u>	<u>Amount</u>
J J Brashears	01948392	\$33.02
A W Wheeler	02039354	\$53.04
A R Keys	02441829	\$37.70
P Lantigua	02077022	\$28.73
G S Folster	02123533	\$72.41

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Overtime Desired List Carriers

<u>Employee</u>	<u>EIN</u>	<u>Amount</u>
A R Vega	02441829	\$115.20
E Quinonez	02215750	\$115.20
H H Trelles	02177901	\$115.20
D A Romero Sr.	02201151	\$115.20
M F Suarez	03453376	\$115.20
P V Calderon	03660409	\$115.20

EXPLANATION: The Union argued Management violated Article 8 of the National Agreement by improperly working Non-Overtime Desired List Carrier prior to maximizing the Overtime Desired List Carries.

The Union appealed the grievance to the Step B Level without a Formal Step A Meeting on September 15, 2014. Documents contained in grievance file demonstrate the grievance was appealed to the Formal Step A Level on September 8, 2014. The PS Form 8190 included in the grievance file did not have the signature of the USPS Formal Step A Representative. The Request for a Formal Step A Meeting has a postal stamp from San Marcos Texas dated September 8, 2014.

According to Article 8 of the National Agreement;

8.5.G Full-time employees not on the "Overtime Desired" list may be required to work overtime only if all available employees on the "Overtime Desired" list have worked up to twelve (12) hours in a day or sixty (60) hours in a service week. Employees on the "Overtime Desired" list:

1. may be required to work up to twelve (12) hours in a day and sixty (60) hours in a service week (subject to payment of penalty over time pay set forth in Section 4.D for contravention of Section 5.F); and
2. excluding December, shall be limited to no more than twelve (12) hours of work in a day and no more than sixty (60) hours of work in a service week.

However, the Employer is not required to utilize employees on the "Overtime Desired" list at the penalty overtime rate if qualified employees on the "Overtime Desired" list who are not yet entitled to penalty overtime are available for the overtime assignment.

[see Memos and Letter of Intent, pages 172-176]

Article 8.5.G provides that employees on the Overtime Desired List may be required to work up to 12 hours per day and 60 hours per week. It further provides that the 12 and 60 hour restrictions do not apply to employees on the Overtime Desired List during the month of December.

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According to Article 15 of the National Agreement;

15.3.C Failure by the Employer to schedule a meeting or render a decision in any of the Steps of this procedure within the time herein provided (including mutually agreed to extension periods) shall be deemed to move the grievance to the next Step of the grievance-arbitration procedure.

Warning. Article 15.3.C can easily be misunderstood. It *does not* mean that grievances are automatically appealed if management fails to issue a timely decision. Rather, if management fails to issue a timely decision (unless the parties mutually agree to an extension) the union must appeal the case to the next step within the prescribed time limits if it wishes to pursue the grievance. In cases where management fails to issue a timely decision, the time limits for appeal to the next step are counted from the date management's decision was due.

Management's failure to meet at the Formal Step A and supply written contentions led to the decision stated above.



Kimetra Y. Lewis
NALC Step B Representative



James Chandler
USPS Step B Representative

CC: Step A Parties NALC/USPS
Kathy Baldwin NALC NBA Region 10
Southern Area Labor Relations
Diana Bennett
Darrell Jungman

Mgr. OPS
POOM
Mgr. HR Rio Grande District
John Merritt

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