

DALLAS DISTRICT DISPUTE RESOLUTION TEAM

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Kimetra Lewis
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RESOLVED



STEP B DECISION

Step B Team: Kimetra Lewis
Schenequa Neal

Decision: RESOLVE
USPS Number: G11N-4G-C 15077699
Grievant: Class Action
Branch Grievance Number: 421-056-15
Branch Number: 421

District: Rio Grande
Deciding District: Dallas



Installation: San Marcos
Delivery Unit: San Marcos 78666
State: Texas
Incident Date: 01/03/2015
Date Informal Step A Initiated: 01/24/2015
Formal Step A Meeting Date: 02/03/2015
Date Received at Step B: 02/09/2015
Step B Decision Date: 02/18/2015
USPS Issue Code: 08.5410
NALC Issue Code: 120051
Original Step B Received Date:
Date Sent To Assisting Team:

Formal Step A Parties
NALC: E Quinonez
USPS: L Walsh

ISSUE: Did Management violate Article 8.5 of the JCAM when they assigned overtime to non ODL carriers prior to assigning the overtime to the ODL carriers? If so, what is the appropriate remedy?

DECISION: The Dispute Resolution Team has agreed to RESOLVE this grievance. There was a violation. The Dispute Resolution Team reached common ground on the remedy. The following employees will be compensated the following lump sum amounts to be entered into GATS at the Step B Level of the Grievance/Arbitration Procedure:

Employee	EIN	Amount
D Yanez	02187333	21
G Folster	02123533	7
S Keys	02615845	16
M Suarez	03453376	30
D Romero Sr	02201151	30
A Vega	02441829	20
R Briseno	04122157	47

EXPLANATION: For the week of 01/03/2015 through 01/09/2015, Non-ODL and Work Assignment carriers worked off overtime while ODL carriers were available.

The union contends management violated articles 8.5.D, 8.5.G and Article 3 of the National Agreement by improperly utilizing the Non-ODL and Work Assignment carriers to carry auxiliary assistance off their assigned routes and into overtime status. The Union argued there were ODL carriers available to work the mandated overtime.

The Union contends during the week of 01/03/2015 through 01/09/2015, there were several hours of violations. The Union contends the weekly schedule showed no open routes. The Union argued had management utilized the auxiliary assistance and ODL carrier properly; no violations would have occurred.

There were no written contentions from management included in the grievance file.

Per Article 8.5.G of the National Agreement:

8.5.G

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 overtime 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.

JCAM page 8-15 provides:

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.

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

The grievance file contained the ODL for Quarter 1 for 2015 for the San Marcos Post Office. The grievance file contained the Overtime Alert Report showing the amount of overtime

worked. The grievance file also contained the employee moves report showing the assignments for each carrier and the amount of time spent on that assignment.

A review of the grievance file showed Non-ODL carriers working overtime on their own assignment while available ODL carriers had not worked up to 10 hours. The records of the grievance file also revealed carriers on the Non-ODL and Work Assignment list working overtime on another assignment while ODL carriers were available.

The union, as part of their requested remedy, sought compensation for Carrier Technician T. Harris for working mandatory overtime.

JCAM page 8-22 provides:

Carrier Technicians on the Work Assignment List are considered available for overtime on any of the routes on their string. Subject to the penalty overtime exceptions discussed above, this provision should be applied as follows:

- A Carrier Technician who has signed for Work Assignment overtime has both a right and an obligation to work any overtime that occurs on any of the five component routes on a regularly scheduled day.
- When overtime is required on the regularly scheduled day of the route of a carrier who is on the ODL and whose Carrier Technician is on the Work Assignment List, the Carrier Technician is entitled to work the overtime.
- When overtime is required on the regularly scheduled day of the route of a carrier who is on the Work Assignment List and whose Carrier Technician is also on the Work Assignment List, the regular carrier on the route is entitled to work the overtime.

The Overtime Desired list indicated that Carrier Technician Harris was listed on the Work Assignment list. The grievance file shows Carrier Technician Harris has a string of routes to include 6601, 6614, 6616, 6613 and 6610. On January 3rd and January 9th Carrier Technician Harris performed the overtime assignments on Route 6616. According to the record of the file, the regular carrier assigned to Route 6616 (Cain) is also listed on the Work Assignment list; however, Cain was unavailable to perform the overtime assignments as it was indicated in the record that Cain was not on duty. According to the record, Carrier Technician Harris did work overtime on the week of 01/03/2015 through 01/09/2015; however, the overtime worked by Carrier Technician Harris was overtime that occurred within the five component routes on his regular scheduled day and was properly assigned. Therefore, there would be no violation for Carrier Harris working this assigned overtime.

Based upon the evidence presented within the grievance file, the DRT arrived at the decision cited above.


Kimetra Y. Lewis
NALC Step B Representative


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USPS Step B Representative

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cc: Rio Grande DRT

Contents: PS Form 8190, NALC GATS number statement, Time limit extensions, NALC contentions, Request for documentation/steward time/Informal Step A meeting, Request for a Formal Step A meeting, Overtime Desired List, Off Assignment and Overtime hours carried by non ODL and WA, Overtime Alert, Employee Moves, schedule, Hours Analysis, Daily Available hours for carriers, Overtime used, hours requested, Daily assignment sheets, table of contents, END