

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-C 16374985
Grievant: Class Action
Branch Grievance Number: 421-384-16
Branch Number: 421
Installation: San Marcos
Delivery Unit: MPO
State: Texas
Incident Date: 4/23/2016 – 4/29/2016
Informal Step A Meeting Date: None
Formal Step A Meeting Date: 5/9/2016
Date Received at Step B: 5/17/2016
Step B Decision Date: 5/18/2016
USPS Issue Code: 08.5410
NALC Issue Code: 120051

District Grieving: Rio Grande
District Deciding: Dallas

Formal Step A Parties:
Michael A. Johnson, USPS
Edward Quinonez, NALC

ISSUE: Did management violate Article 8 of the National Agreement when they mandated non-ODL carriers to work overtime when ODL assistance was available? If so, what is the appropriate remedy?

DECISION: The DRT **RESOLVED** this grievance. Violations did occur. The following carriers will be paid accordingly. All payments will be input into GATS at the Step B level.

NAME	EMPLOYEE ID #	AMOUNT
H Trelles	02177901	86.00
L Meditz	04348359	103.00
B Peralta	04440591	144.00
S Keys	02165845	78.00
J Brashears	01948392	34.00
D Iten	02126521	145.00
A Wheeler	02039354	130.00
G Folster	02123533	32.00

EXPLANATION: The Union contends during the week of 4/23/2016 – 4/29/2016, management violated Articles 8.5.D and 8.5.G. by mandating non-ODL carriers to work overtime off their regular assignments prior to assigning this overtime to ODL carriers up to the contractual limits of 12 hours per day/60 hours per week as specified in Article 8.5. The Union contends management deliberately schedules routes uncovered, which results in non-ODL carriers being mandated to work overtime off their regular assignments. The Union requested as remedy that non-ODL carriers be granted compensatory time off (ADM Leave) for all hours they were improperly mandated to work overtime and that ODL carriers be paid at the corresponding overtime rate for the lost overtime opportunities.

Management contends that on 4/23/2016, Carrier Keys did not submit a Form 3996. Management contends they had to mandate overtime due to unscheduled absences for the other days. /Management agrees there were violations on 4/23/2016, 4/26/2016 and 4/27/2016.

The DRT determined the file established violations of Article 8 did occur during the week of 4/23/2016 – 4/29/2016 when non-ODL carriers were mandated to work overtime off their regular assignments when ODL carriers were available to perform that work within the limitations of Article 8.5.D and 8.5.G.

According to Article 8.5.D;

8.5.D If the voluntary "Overtime Desired" list does not provide sufficient qualified people, qualified full-time regular employees not on the list may be required to work overtime on a rotating basis with the first opportunity assigned to the junior employee.

Mandatory overtime. One purpose of the Overtime Desired List is to excuse full-time carriers not wishing to work overtime from having to work overtime. Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment on a regularly scheduled day, management must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime. However, if the Overtime Desired List does not provide sufficient qualified fulltime regulars for required overtime, Article 8.5.D permits management to move off the list and require non-ODL carriers to work overtime on a *rotating basis* starting with the junior employee. This rotation begins with the junior employee at the beginning of each calendar quarter. Absent an LMOU provision to the contrary, employees who are absent on a regularly scheduled day (e.g. sick leave or annual leave) when it is necessary to use non-ODL employees on overtime will be passed over in the rotation until the next time their name comes up in the regular rotation.

Article 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.

[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.

In grievance number C-03633, Regional Arbitrator Holly ruled, in part;

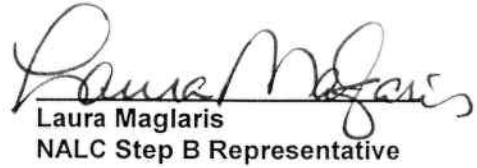
"Unscheduled sick leave does not constitute an "unanticipated circumstance"

M-39 Section 111.2:

g. Review all communications that may affect the day's workload, and be sure replacements are available for unscheduled absences. Develop contingency plans for situations that may interfere with normal delivery service.



James Chandler
USPS Step B Representative



Laura Maglaris
NALC Step B Representative

cc: Rio Grande DRT

Contents: PS Form 8190, NALC Contentions, NALC Overtime Spreadsheets, TACS Reports, NALC Requests, XXXEND

Payout Request History for Grievance 16374985

[HELP](#)

no data

<p><u>Not Processed By Payroll</u></p> <p><input checked="" type="checkbox"/> New (Not yet sent to Payroll)</p> <p><input checked="" type="checkbox"/> Pending (Not back from Payroll)</p> <p><input checked="" type="checkbox"/> Submitted (Received acknowledgment from Payroll, awaiting processing)</p>	<p><u>Payroll Processed</u></p> <p><input checked="" type="checkbox"/> Paid (Back from Payroll without error)</p> <p><input checked="" type="checkbox"/> Payroll Error (Back from Payroll with error)</p>
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New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested	
New		1	\$32.00	FOLSTER	GREGORY	9372	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$34.00	BRASHEARS	JEREMY	1557	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$78.00	KEYS	STACEY	9904	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$86.00	TRELLES	HENRY	0967	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$103.00	MEDITZ	LISA	6976	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$130.00	WHEELER	ALICIA	8258	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$144.00	NAVAIRA-PERALTA	BOBBY	6057	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
New		1	\$145.00	ITEN	DAVID	0225	PP9 FY2016	VCMRB0	05/18/2016	<input type="button" value=" De"/>
Total New: \$752.00										
Total Pending: \$0.00										
Total Submitted: \$0.00										

Paid and Errors from Finance

Status	Error or Warning	App Seq	Request Amount	Amount Paid	PP Paid	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested
No Data											
Total Paid: \$0.00											
Total Error: \$0.00											