



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1838 5556
Robin Gutman	Grievant:	Jeremy Brashears
NALC:	Branch Grievance Number:	421-792-18
Louise K. Jordan	Branch:	421
	Installation:	San Marcos
District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	07/26/2018 & Ongoing
	Informal Step A Meeting:	08/10/2018
	Formal Step A Meeting:	08/29/2018
USPS Formal A:	Received at Step B:	08/31/2018
Carolyn Carter	Step B Decision Date:	09/13/2018
NALC Formal A:	Issue Code:	13.4100
Richard Gould	NALC Subject Code:	507501

ISSUE:

Did management violate Articles 13 of the National Agreement and the light duty provisions contained in the Local Memorandum of Understanding (LMOU) at the Main Post Office in San Marcos, Texas by denying light duty to the grievant? If so, what is the remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The file did evidence management violated Article 13 when they denied Carrier Brashear light duty. Management will convert 64 hours of sick leave (056) and 65 hours of annual leave (055) to Administrative Leave (086). Management will complete and submit all paperwork within 14 days of receipt of this decision. Management will provide copies of the leave adjustments to the local union. See the DRT Explanation below.

EXPLANATION:

The grievant in this case is Jeremy Brashear, a full-time city letter carrier with a seniority date of 06/03/2001, assigned to the Main Post Office in San Marcos, Texas. On 07/26/2018, the grievant submitted a written request for light duty to the Postmaster. Medical documentation was submitted on 08/01/2018. On 08/07/2018, the Postmaster signed a letter disapproving the request for light duty, stating no light duty was available. Management acknowledges in their contentions the LMOU was not followed and the NALC Branch President was not consulted concerning available light duties. Management's contentions further state there was casing mail duties available and that Jeremy Brashear would be entitled to 26 days of light duty work which had not provided to him if he had a closed-toe boot. The photograph in the file clearly shows a closed-toe boot. On 08/23/2018 the grievant filed a second request for light duty and provided medical documentation changing some of his restrictions. The file lacks any response by management concerning the second request for light duty.

The union filed this grievance to protest the violation and were 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 management violated Article 13 when the installation head failed to consult with the Branch President/designee regarding the light duty request. The union further contends management violated articles 13 and 19 (via the ELM, section 355) and/or Article 30 (via the LMOU Article 13, Sections 2 and 3) when they failed to provide the grievant light duty work, failed to provide timely notice of the denial and failed to explain with any real detail why light duty was not available..

The union requests management cease and desist violating NALC Branch 421 LMOU Article 13 regarding the requirement to consult with the branch president regarding light duty assignments and the requirement to make every effort to reassign work to concerned employees who have submitted a valid request for light duty. The union requests a make whole remedy and pay adjustments to convert any annual/sick leave used to administrative pay for 40 hours per week. Finally, the union requests management provide the grievant with light duty work within his medical restrictions or otherwise make whole.

Management contends the grievant was required to wear a heavy work boot which would be a safety hazard on the work room floor. Management contends although the picture in the file is a closed-toe boot that the grievant wore an open-toed boot when he came to the office. Management states there is no documentation to dispute the union's claim the LMOU was not followed. Management states the only available route to case was the grievant's primary route assignment and there would have been 1:12 hours daily the grievant was entitled to.

The DRT reviewed the case file and determined management had an obligation to consult with the NALC Branch President concerning available light duty work and to make a bona fide effort to identify available work up to the carrier's limitations. The denial letter sent to the employee did not specify why light duty was not available.

The JCAM, (Joint Contract Administration Manual) page 13-4 states:

13.2.C. Installation heads shall show the greatest consideration for fulltime regular or part-time flexible employees requiring light duty or other assignments, giving each request careful attention, and reassign such employees to the extent possible in the employee's office. When a request is refused, the installation head shall notify the concerned employee in writing, stating the reasons for the inability to reassign the employee.

Article 13.2.C requires that installation heads make a bona fide effort to identify light duty work. It further requires management to give the matter "the greatest consideration" and "careful attention." If management does not provide the requested light duty work, it has an obligation to explain in writing why light duty work is unavailable. Disputes concerning the failure to provide light duty work may be addressed through the grievance arbitration procedure.

The JCAM also talks about Local implementation of Article 13 which would be addressed in the installations LMOU. Page 13-4 and 13-5 of the JCAM state:

Section 3. Local Implementation

Due to varied size installations and conditions within installations, the following important items having a direct bearing on these reassignment procedures (establishment of light duty assignments) should be determined by local negotiations.

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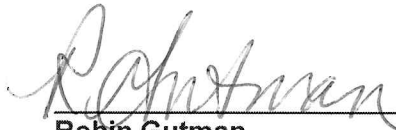
13.3.A. Through local negotiations, each office will establish the assignments that are to be considered light duty within each craft represented in the office. These negotiations should explore ways and means to make adjustments in normal assignments, to convert them to light duty assignments without seriously affecting the production of the assignment.

13.3.B. Light duty assignments may be established from part-time hours, to consist of 8 hours or less in a service day and 40 hours or less in a service week. The establishment of such assignment does not guarantee any hours to a part-time flexible employee.

13.3.C. Number of Light Duty Assignments. The number of assignments within each craft that may be reserved for temporary or permanent light duty assignments, consistent with good business practices, shall be determined by past experience as to the number of reassignments that can be expected during each year, and the method used in reserving these assignments to insure that no assigned full-time regular employee will be adversely affected, will be defined through local negotiations. The light duty employee's tour hours, work location and basic work week shall be those of the light duty assignment and the needs of the service, whether or not the same as for the employee's previous duty assignment.

The DRT mutually agreed the grievant should have been allowed to work light duty up to his medical limitations of four hours of standing per day from 07/27/2018 through 08/22/2018 and five hours a day from 08/23/2018 through 09/04/2018.

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

NALC Branch President
NALC Formal Step A Designee
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

P.S. Form 8190
Union's Contentions (5 pages)
Management's Contentions (11 pages)
Interview: Supervisor S. Wallace
Interview: Postmaster C. Carter
Employee Everything Report (5 pages)
Route/Carrier Analysis Report (24 pages)
Rio Grande District Instruction- Light Duty
Step B Decisions (12 pages)

JCAM Excerpt (2 pages)
NALC Branch 421 LMOU (24 pages)
Request for information
Request for a Formal A
Rio Grande Return to Work Clearance
Light Duty Request
Zerox page
Rio Grande Return to Work Clearance
Time Limit Extension (2 pages)

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M-01891 - Moratorium
Light Duty Request
Rio Grande Return to Work Clearance
Medical Documentation
Light Duty Request
Medical Documentation
Rio Grande Return to Work Clearance
Photograph of Boot

Light Duty Denial Letter
USPS Tracking Documents (2 pages)
Grievant's Statement (4 pages)
P. Lantigua Statement
J. Breashears Statement
NALC President Boyd Statement
Steward Statement