



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1812 7866
Alex Zamora	Grievant:	Class
NALC:	Branch Grievance Number:	421-019-18
Jim Ruetze	Branch:	421
	Installation:	Schertz
Deciding District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	12/31/2017
	Informal Step A Initiated:	01/13/2018
	Formal Step A Meeting:	No Meeting
USPS Formal A:	Date Received at Step B:	02/05/2018
No Meeting	Step B Decision Date:	02/15/2018
NALC Formal A:	Issue Code:	08.5400
John English	NALC Subject Code:	120050

ISSUE:

Did management violate Article 8.5 of the National Agreement by failing to equitably distribute overtime hours and/or opportunities in Quarter 4, 2017? If so, what remedy is appropriate?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Overtime was not distributed equitably during Quarter 4, 2017. The carriers listed below will make up the hours in Quarter 1, 2018 as indicated in the table. See the DRT Explanation below.

Employee ID	Employee Name	Make-up Hours
01194867	Brewer, DC	5.21
01954621	Martinez, J	10.13
04174676	Pedroza, JS	14.23

EXPLANATION:

Overtime equitability in Schertz Main Post Office is tracked by comparing overtime desired list (ODL) carriers who have the same rotating schedule. The union filed this grievance to protest management's alleged failure to distribute overtime hours and opportunities equitably to carriers. 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 8.5 of the National Agreement by the inequitable distribution of overtime in Quarter 4, 2017. The union contended that not all carriers on the ODL were given equitable overtime compared to other carriers. The union requests that the affected carriers be compensated as per the included union spreadsheet.

Management did not meet at Formal Step A and did not provide any contentions.

The DRT reviewed the case file and determined management had failed to equitably distribute overtime to the carriers listed above during Quarter 4, 2017 calendar year. The JCAM provides the following relevant language concerning equitable distribution of overtime:

Equitable Distribution of Overtime Opportunities. Seniority does not govern the availability of overtime work for those letter carriers who wish to work overtime. Nor is overtime distributed on a rotating basis. Rather, Article 8.5.C.2 provides that for those carriers who sign the Overtime Desired List, overtime “opportunities” must be distributed “equitably” (i.e., fairly). This does not mean that actual overtime hours worked must be distributed equally.

National Arbitrator Bernstein ruled in H1N-5G-C 2988, August 14, 1986 (C-06364), that in determining “equitable” distribution of overtime, the number of hours of overtime as well as the number of opportunities for overtime must be considered. Overtime worked on a letter carrier’s own route on a regularly scheduled day is not counted or considered in determining whether overtime has been equitably distributed among carriers on the list. Missed opportunities for overtime—i.e. one OTDL carrier worked instead of another— must be made up for with equitable distribution of overtime during the quarter unless the bypassed carrier was not available—i.e. the carrier was on leave or working overtime on his/her own route on a regularly scheduled day, etc. (See the explanation under Article 8.5.C.2.d).

Since full-time flexible employees may have flexible reporting locations within an installation (Article 7), determining whether overtime has been “equitably” distributed can become complex. Of course, if a full-time flexible works within the same overtime “section” for an entire quarter, determining whether overtime has been equitably distributed during the quarter is perfectly straight-forward. However, a fulltime flexible letter carrier assigned to another overtime “section” during a quarter may be entitled to sign the Overtime Desired List in the new section immediately if he/she was on the list in the old section (Article 8.5.A). In such cases the right to an “equitable” share of overtime is only in the new section and is only determined from the time the fulltime flexible letter carrier signed the Overtime Desired List in the new section. Overtime worked in the section to which previously assigned is not a consideration. However, full-time flexible employees will not be moved to another overtime section solely to circumvent the provisions of Article 8.5.C above. The same rule applies in the case of full-time regular letter carriers who sign the Overtime Desired List in a new overtime section or a new installation during the quarter (Article 8.5.A).

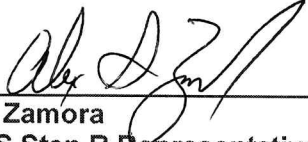
If opting on an assignment under the provisions of Article 41.2.B.3 results in a six day work week, only work over eight hours on the sixth day is counted in determining whether overtime has been equitably distributed among carriers on the list (Article 41.2.B.3).

Remedies. National Arbitrator Howard Gamser ruled in NC-S-5426, April 3, 1979 (C-3200) that the Postal Service must pay employees deprived of “equitable opportunities” for the overtime hours they did not work only if management’s failure to comply with its contractual obligations under Article 8.5.C.2 shows “a willful disregard or defiance of the contractual provision, a deliberate attempt to grant disparate or favorite treatment to an employee or group of employees, or caused a situation in which the equalizing opportunity could not be afforded within the next quarter.” In all other cases, Gamser held, the proper remedy is to provide “an

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equalizing opportunity in the next immediate quarter, or pay a compensatory monetary award if this is not done..."

The union had requested a monetary remedy, but the DRT could not agree the inequitable distribution was the result of willful or deliberate action by management, or that a situation existed that prevented a makeup opportunity in the next quarter. Based on its review of the case file, the DRT mutually agreed to the decision and remedy above.



Alex Zamora
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

Grievance File Contents:

PS Form 8190
Union Contentions
Equitability Report
Employee Request off ODL
Union Spreadsheet
JCAM Excerpts

ODL Listing
Formal Step A Request
Request for Information
ODL Signup Sheet
Hours Analysis Report

cc: District Manager, Rio Grande District
NALC NBA, Region 10
Manager, Human Resources, Rio Grande District
Manager, Labor Relations, Rio Grande District
Postmaster
NALC Branch President
USPS Formal A Representative
NALC Formal A Representative
DRT File