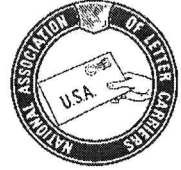




RESOLVE



**STEP B DECISION**

**Step B Team:**

USPS:  
**Alex Zamora**  
NALC:  
**Jim Ruetze**

District:  
**Rio Grande**

USPS Formal A:  
**No Meeting**  
NALC Formal A:  
**John English**

Decision:  
USPS Number:  
Grievant:  
Branch Grievance Number:  
Branch:  
Installation:  
Delivery Unit:  
State:  
Incident Date:  
Informal Step A Meeting:  
Formal Step A Meeting:  
Received at Step B:  
Step B Decision Date:  
Issue Code:  
NALC Subject Code:

**RESOLVE**  
**G16N-4G-C 1816 5593**  
**Nellie Aragon**  
**421-172-18**  
**421**  
**Schertz**  
**MPO**  
**TX**  
**01/26/2018**  
**02/10/2018**  
**No Meeting**  
**03/07/2018**  
**03/19/2018**  
**41.3130**  
**600198**

**ISSUE:**

Did management violate Article 41.2.B of the National Agreement by not allowing CCA Aragon from working the hours of duty for the opt/hold-down on route 5412 on January 26, 2018? If so, what is the remedy?

**DECISION:**

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation when management did not work the grievant the scheduled hours of her opt/hold-down assignment on January 26, 2018. Carrier Aragon (EIN 04519591) is awarded a lump sum payment in the amount of \$78.54; payment was completed at Step B. Management is required to honor the opting provisions in Article 41. See the DRT Explanation.

**EXPLANATION:**

The grievant in this case is Nellie Aragon, a City Carrier Assistant (CCA) assigned to the Schertz, TX Main Post Office with relative standing of 07/08/2017. During the week of January 20-26, 2018, the grievant was holding down route 5412 in Schertz under Article 41 of the National Agreement due to a temporary vacancy on that assignment. Friday, January 26, 2018 was a regularly scheduled day for the hold-down, but the grievant was only allowed to work a total of 4.92 hours on the assignment. The union filed this grievance to protest management's failure to permit the grievant to work the hours and days of the vacant assignment. Unable to resolve the dispute through the Informal A and Formal A steps of the grievance procedure, the union appealed to Step B.

**The union** contends the grievant had a contractual right under Article 41.2.B to work the hours in question, and should therefore be compensated for that day. The remaining hours, had the grievant been allowed to work, would be calculated at the overtime rate as the grievant was in overtime status.

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

The DRT agreed the case file evidenced a violation. Article 41.2.B states the following in relevant part:

*4. Part-time flexible letter carriers may exercise their preference by use of their seniority for vacation scheduling and for available full-time craft duty assignments of anticipated duration of five (5) days or more in the delivery unit to which they are assigned. **City carrier assistants may exercise their preference (by use of their relative standing as defined in Section 1.f of the General Principles for the Non-Career Complement in the Das Award) for available full-time craft duty assignments of anticipated duration of five (5) days or more in the delivery unit to which they are assigned that are not selected by eligible career employees.***

*5. A letter carrier who, pursuant to subsections 3 and 4 above, has selected a craft duty assignment by exercise of seniority shall work that duty assignment for its duration.*

*Moreover, opting is not "restricted to employees with the same schedule as the vacant position" (H1N-1J-C 6766, April 17, 1985, M-00843). Rather, an employee who opts for a hold-down assignment assumes the scheduled hours and non-scheduled day of the opted assignment. (See "Schedule Status and Opting".)*

***Duration of Hold-Down.** Article 41.2.B.5 provides that once an available hold-down position is awarded, the opting employee "shall work that duty assignment for its duration." An opt is not necessarily ended by the end of a service week. Rather, it is ended when the incumbent carrier returns, even if only to perform part of the duties—for example, to case but not carry mail.*

Page 41-17 of the JCAM discusses remedies for opting violations:

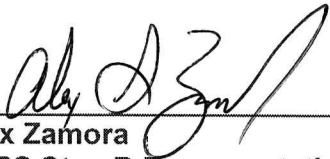
***Remedies and Opting.** Where the record is clear that a PTF or city carrier assistant was the senior available employee exercising a preference on a qualifying vacancy, but was denied the opt in violation of Article 41.2.B.4, an appropriate remedy would be a "make whole" remedy in which the employee would be compensated for the difference between the number of hours actually worked and the number of hours he/she would have worked had the opt been properly awarded.*

*In those circumstances in which a PTF or city carrier assistant worked forty hours per week during the opting period (or forty-eight hours in the case of a six day opt), an instructional "cease and desist" resolution would be appropriate. This would also be an appropriate remedy in those circumstances in which a reserve letter carrier or an unassigned letter carrier was denied an opt in violation of Article 41.2.B.3.*

*In circumstances where the violation is egregious or deliberate or after local management has received previous instructional resolutions on the same issue and it appears that a "cease and desist" remedy is not sufficient to insure future contract compliance, the parties may wish to consider a further, appropriate compensatory remedy to the injured party to emphasize the commitment of the parties to contract compliance. In these circumstances, care should be exercised to insure that the remedy is corrective and not punitive, providing a full explanation of the basis of the remedy. (Emphasis Added)*

The case file evidenced management did not work the grievant for the scheduled hours of the opted assignment. The grievant was made whole by way of a lump sum payment for that time. The DRT did not agree to the additional lump sum requested by the union at this time for the violation; however, future violations may be met with an additional remedy, consistent with the JCAM language quoted above.

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  
Employee Moves Report  
Union Contentions  
Workhour Workload Report  
Employee Everything Report

Weekly Schedule  
Copy of Text Message  
Informal Step A Request  
Hours Analysis Report

cc: **Area Manager of Labor Relations, Southern Area**  
**NALC NBA, Region 10**  
**District Manager, Rio Grande District**  
**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**

**Payout Request History for Grievance  
18165593**

[HELP](#)

no data

<p><b><u>Not Processed By Payroll</u></b></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><b><u>Payroll Processed</u></b></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>
--	--

**New, Pending and Submitted Requests**

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested	
New		2	\$78.54	ARAGON	NELLIE	2328	PP3 FY2018	KBY9N0	03/28/2018	<input type="button" value=" Details"/>
Total New: \$78.54										
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											