



RESOLVE



STEP B DECISION

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|---|---|---|
| USPS Step B: Rose Barner NALC Step B: Jim Ruetze | Decision: USPS Number: Grievant: Branch Grievance Number: Branch: Installation: Delivery Unit: State: Incident Date: Informal Step A Initiated: Formal Step A Meeting: Received at Step B: Step B Decision Date: Issue Code: NALC Subject Code: | RESOLVE G16N-4G-C 2107 5931 Class 421-1122-21 421 Eagle Pass MPO TX 12/26/2020-01/01/2021 01/07/2021 01/12/2021 01/14/2021 01/21/2021 08.5450 120051 |
| District: Rio Grande | | |

ISSUE: Did management violate Article 8.5 of the National Agreement by assigning off-assignment overtime to full-time carriers not on the 10- or 12- hour overtime desired lists? If so, what is the remedy?

DECISION: The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case file evidenced a violation of the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. Non-ODL carriers who were improperly assigned to work overtime were compensated an additional 50% of their straight time rate. ODL carriers were compensated for the missed overtime opportunities at the rate of pay they would have earned if they had performed the work. Management shall assign overtime consistent with the provisions of Article 8.5. All payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

| Carrier | EIN | Remedy | Carrier | EIN | Remedy |
|---------------|----------|-----------------|---------------|----------|----------------|
| Castro, L | 04173095 | \$11.65 | Rodriguez, JJ | 02240917 | \$90.86 |
| Rodriguez, A | 03563531 | \$15.64 | Rodriguez, O | 04233586 | \$26.99 |
| Dunn, LR | 04344813 | \$55.61 | Valdez, J | 04226476 | \$19.91 |
| Rodriguez, GL | 04299439 | \$123.61 | | | |

EXPLANATION: This grievance concerns the assignment of overtime among full-time letter carriers at the Main Post Office in Eagle Pass, Texas during the week of December 26, 2020 through January 1, 2021. During that week, management assigned

overtime to letter carriers who were either on the work assignment overtime desired list or were not on any overtime desired list. The union filed this grievance to protest the improper overtime assignments. Unable to achieve a resolution through the Informal or Formal A levels of the grievance process, the union appealed the grievance to Step B.

The union at Formal Step A contended non-ODL letter carriers Leonardo Castro, Anthony Rodriguez and Lee Roy Dunn worked overtime on and off their assignments during the week in question, while ODL carriers were available to perform the work. The union contended even though the carriers that management mentioned on annual leave and detail, there were still available ODL carriers and CCA's available. ODL Jorge Valdez remained at home instead of working his scheduled day off which would have easily alleviated the overtime Dunn had to carry on his scheduled day off.

The union requested management cease and desist from violating Article 8 by assigning off-route overtime to non-ODL carriers before the ODL has been properly maximized. The union also requested

Management at Formal Step A contended during the week in question two carriers were on annual leave all week, one carrier in Pecos on detail all week and one was a 204B at the office. Management contended one issue is Anthony Rodriguez worked on December 26 as a work assignment employee but his route has closed businesses on Saturdays. Rodriguez provides auxiliary assistance (past practice) and there was no other available carrier to perform collections that day in an attempt to avoid penalty overtime. The second issue is Carrier Dunn, a work assignment carrier, cased route 16 to also avoid penalty overtime. Management contended Carrier Castro requested 35 minutes on PS form 3996 and was approved 30 minutes, but failed to return to the office within 8 hours and he did not call supervisor.

Management further contended the union failed to provide proof of work assignment carriers performing off-route overtime. Also, there are only two non-ODL carriers and Castro worked overtime on his route because no one was available

The DRT reviewed the case file and determined there were work assignment carriers performing off route overtime and non-ODL carriers who worked overtime. The DRT agreed there was a violation of Article 8.5 during the week of December 26, 2020 through January 1, 2021 when the overtime among full-time carriers was not assigned in accordance with the provisions of Article 8.5. The assignment of overtime to non-ODL carriers on their assignments is governed by the Letter Carrier Paragraph, which is discussed on pages 8-14 and 8-15 of the JCAM:

The "Letter Carrier Paragraph." For many years Article 8.5.C.2.d also gave management the right to require a letter carrier working on his/her own route on a regularly scheduled day to work mandatory overtime rather than assigning the overtime to a carrier from the Overtime Desired List. However, in the Overtime Memorandum first negotiated as part of the 1984 National Agreement, the Postal

Service and the NALC added the following qualification, known as the "letter carrier paragraph."

In the Letter Carrier Craft, where management determines that overtime or auxiliary assistance is needed on an employee's route on one of the employee's regularly scheduled days and the employee is not on the overtime desired list, the employer will seek to utilize auxiliary assistance, when available, rather than requiring the employee to work mandatory overtime.

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.

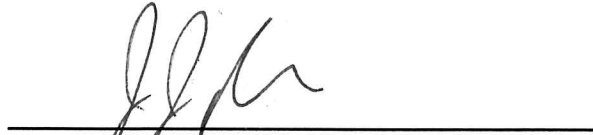
Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment, management must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime (Article 8.5.D).

The memo goes on to state that "the determination of whether management must use a carrier from the ODL to provide auxiliary assistance must be made on the basis of the rule of reason." For example, **management is not required to use a carrier from the ODL when the travel time would be excessive for the amount of assistance being given.** The full text of the memorandum is reprinted at the end of this article. [Emphasis Added]

The DRT noted the schedule for December 31 would have been made in accordance with Article 11.6; therefore, the assignment of WA carrier Dunn was not subject to Article 8, and the case file did not indicate the holiday schedule pecking order was not followed. The DRT agreed only the overtime worked off his carrier technician string was in violation of Article 8.5. Based on its review of the case file, the DRT agreed to the decision and remedy above.



Rose Barner
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:

LR Manager, Southern Area
NALC Region 10 NBA
Rio Grande District HR Manager
Rio Grande District LR Manager
USPS Formal A Jesus Carrillo

NALC Branch President
NALC Formal A Jorge Valdez
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Request for Formal Step A Meeting
Union Contentions - 12 pgs
Management Contentions - 28 pgs
Performance/Analysis Report - 16 pgs
Work Schedule – 4 pgs
Informal Step A
Request for Steward Time - 2 pgs.

ODL Signup Sheet
Request for Information/Time/Meeting
Overtime Alert Report - 2 pgs
Employee Moves Report - 9 pgs
Employee Everything Report – 49 pgs
PS Form 3996
Carrier Statements – 6 pgs

Payout Request History for Grievance

[HELP](#)

21075931

no data

Not Processed By Payroll

- New (Not yet sent to Payroll)
- Pending (Not back from Payroll)
- Submitted (Received acknowledgment from Payroll, awaiting processing)

Payroll Processed

- Paid (Back from Payroll without error)
- Payroll Error (Back from Payroll with error)

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Show History

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 | \$11.65 | CASTRO | LEONARDO | 8565 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| New | | 1 | \$19.91 | VALDEZ | JORGE | 5354 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| New | | 1 | \$26.99 | RODRIGUEZ | ORLANDO | 4459 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| New | | 1 | \$55.61 | DUNN | LEE | 9954 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| New | | 1 | \$90.86 | RODRIGUEZ | JESUS | 6718 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| New | | 1 | \$123.61 | RODRIGUEZ | GABRIEL | 7901 | PP1 FY2021 | YSZ1BC | 01/21/2021 | <input type="checkbox"/> |
| Total New: \$328.63 | | | | | | | | | | |
| 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 | | | | | | | | | | | |