



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2118 2972
Laurie Nichols-Marshall	Grievant:	Class Action
NALC:	Branch Grievance Number:	421-1674-21
Jose Portales	Branch:	421
District:	Installation:	San Antonio
Rio Grande	Delivery Unit:	Beacon Hill Station
	State:	TX
	Incident Date:	03/16/2021
	Informal Step A Meeting:	03/19/2021
	Formal Step A Meeting:	04/01/2021
	Received at Step B:	04/15/2021
	Step B Decision Date:	05/20/2021
	Issue Code:	08.5450
	NALC Subject Code:	120051

ISSUE: Did management violate Article 8.5, sections D and G of the National Agreement when they mandated non-overtime desired list (ODL) and work assignments (WA) letter carriers to work overtime on and off their assignments while ODL carriers were still available? 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 Articles 8.5.D and 8.5.G of the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. The non-ODL carriers who were improperly assigned to work overtime were compensated an additional 100% of their straight time rate and 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 must 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.

EIN	Employee	Hours	Remedy
04350847	J Romero	1.73	\$76.55
04466169	J. Castaneda	0.77	\$22.72
04759024	E. Jordan	0.57	\$16.82
04726788	H. Bjork	0.39	\$11.51

EXPLANATION: This is a class action grievance filed on behalf of the city letter carriers assigned to the Beacon Hill Station in San Antonio, TX. The grievance was filed to protest management working non-ODL and WA carriers on and off their assignments while ODL carriers were available. Unable to resolve the dispute 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.D and 8.5.G of the National Agreement when non-ODL and WA carriers were mandated to work on and off their own assignments while ODL carriers were available at the overtime and penalty overtime rates. The union also contends management violated Article 15.3.A and Postal Policy Letter M-01517 via Article 19 when they failed to comply with Arbitrator Barrett's decision dated 12/30/2019. Arbitrator Barrett's ordered management to fully cease and desist from further violations of Article 8.

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284
PHONE: 210-368-5477, 210-368-1784; FAX: 210-368-8525

The union requests management immediately cease and desist violating the provisions of Article 8 and pay the non-ODLs 125% of pay rate or administrative leave for the time they were mandated on and off assignment and the ODL carriers to be made whole for the time they should have worked. The union also requests management compensate the union \$250.00 for the continued effort and resources needed to process the attached grievance. The union finally requests all carriers affected be compensated an additional \$10.00 for management's failure to comply with Arbitrator Barrett's decision.

Management met at Formal Step A. However, did not provide contentions.

The DRT reviewed the case file and determined the overtime among full-time carriers on 03/16/2021 was not assigned in accordance with the provisions of Article 8.5. On the day in question the overtime carriers had still not reached the 12/60 hour limit and were still available.

The following excerpts from Article 8.5.D of the Joint Contract Administration Manual (JCAM) language, on page 8-17, addresses when to assign overtime to non-ODL carriers off their assignments in assigning overtime among the overtime desired list carriers:

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. [Emphasis Added]*

As it pertains to the 12 hours/60 day hours rule, the JCAM states the following on pages 8-19 and 8-20:

On October 19, 1988 the national parties signed the following Memorandum of Understanding (M-00859):

*The parties agree that with the **exception** of December, full-time employees are prohibited from working more than 12 hours in a single work day or 60 hours within a service week. In those limited instances where this provision is or has been violated and a timely grievance filed, full-time employees will be compensated at an additional premium of 50 percent of the base hourly straight time rate for those hours worked beyond the 12 or 60 hour limitation. The employment of this remedy shall not be construed as an agreement by the parties that the Employer may exceed the 12 and 60 hour limitation with impunity.*

As a means of facilitating the foregoing, the parties agree that excluding December, once a full-time employee reaches 20 hours of over- time within a service week, the employee is no longer available for any additional overtime work. Furthermore, the employee's tour of duty shall be terminated once he or she reaches the 60th hour of work, in accordance with Arbitrator Mittenthal's National Level Arbitration Award on this issue, dated September 11, 1987, in case numbers H4NNA-C 21 (3rd issue) and H4C-NA-C 27 (C-07323). [Emphasis Added]

For Work Assignment carriers and Carrier Technicians on work assignment, the following JCAM language from page 8-22 addresses the assignment of overtime off their assignment or on a non-scheduled day:

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284
PHONE: 210-368-5477, 210-368-1784; FAX: 210-368-8525

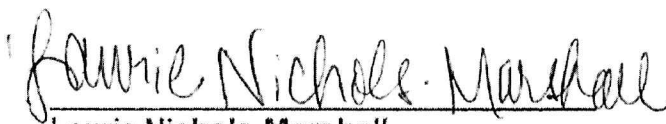
*The Work Assignment List was established for full-time letter carriers who only want to work overtime on their own assignment on regularly scheduled days. Signing up for the Work Assignment overtime does not create any entitlement or obligation to work overtime on a non-scheduled day. For purposes of **overtime on a non-scheduled day or on other than their own assignment**, carriers on the Work Assignment list are treated exactly the same as any other full-time carriers **not on the Overtime Desired List**—They may only be required to work overtime under the provisions of Article 8.5.D. [Emphasis in Original]*

On page 8-22, the JCAM clarifies that the “work assignment” for the purpose of assigning overtime to Carrier Technicians on the WA list consists of all five routes on the string:

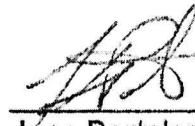
Carrier Technicians on the Work Assignment List are considered available for overtime on any of the routes on their string. Subject to the penalty overtime exceptions discussed above, this provision should be applied as follows:

- *A Carrier Technician who has signed for Work Assignment overtime has both a right and an obligation to work any overtime that occurs on any of the five component routes on a regularly scheduled day.*
- *When overtime is required on the regularly scheduled day of the route of a carrier who is on the ODL and whose Carrier Technician is on the Work Assignment List, the Carrier Technician is entitled to work the overtime.*
- *When overtime is required on the regularly scheduled day of the route of a carrier who is on the Work Assignment List and whose Carrier Technician is also on the Work Assignment List, the regular carrier on the route is entitled to work the overtime. [Emphasis Added]*

The team discussed the remedy of administrative leave to the non-ODL carriers and the additional payment of \$10.00 per carrier but did not find it appropriate at this time. Based on its review of the case file, the DRT mutually agreed to the decision and remedy above.



Laurie Nichols-Marshall
USPS Step B Representative



Jose Portales
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 Step A M. R. Moreno

NALC Branch President
NALC Formal Step A R. Hidalgo
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Employee Moves Report (5 pgs)
Arbitrator Barrett's Award (14 pgs)
Pre-Arbitration Agreements (9 pgs)
Request for Information
Weekly Schedule (2 pgs)

Union's Charts (4 pgs)
Union's Contentions (26 pgs)
Vice President R. Gould's Statement
Request to Meet at Formal Step A
ODL (2 pgs)

**Payout Request History for Grievance
21182972**

[HELP](#)

<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>
<p>< Back</p>	<p>Show History</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		1	\$11.51	BJORK	HARLEY	1049	PP7 FY2021	XCNXF0	05/21/2021
New		1	\$16.82	JORDAN	ETOYYA	8237	PP7 FY2021	XCNXF0	05/21/2021
New		1	\$22.72	CASTANEDA	JAIRO	7233	PP7 FY2021	XCNXF0	05/21/2021
New		1	\$76.55	ROMERO	JONATHAN	8754	PP7 FY2021	XCNXF0	05/21/2021
Total New: \$127.60									
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											