

# RESOLVE



## STEP B DECISION

<b>Step B Team:</b>	Decision:	<b>RESOLVE</b>
USPS:	USPS Number:	<b>G19N-4G-C 2117 5923</b>
<b>Rose Barner</b>	Grievant:	<b>Class Action</b>
NALC:	Branch Grievance Number:	<b>421-1586-21</b>
<b>Jim Ruetze</b>	Branch:	<b>421</b>
	Installation:	<b>San Antonio</b>
	Delivery Unit:	<b>Nimitz</b>
	State:	<b>TX</b>
District:	Incident Date:	<b>03/04/2021</b>
<b>Rio Grande – Texas 3</b>	Informal Step A Meeting:	<b>03/17/2021</b>
	Formal Step A Meeting:	<b>03/30/2021</b>
	Step B Received:	<b>04/07/2021</b>
	Step B Decision Date:	<b>05/19/2021</b>
	Issue Code:	<b>08.5450</b>
	NALC Subject Code:	<b>120051</b>

**ISSUE:** Did management violate Article 8.5 of the National Agreement by mandating Work Assignment (WA) carriers and non ODL carriers off their assignments when overtime desired list (ODL) carriers were available? If so, what is the appropriate 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 at additional 100% 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 done 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.

Employee	EIN	Hrs @100%	OT Hours	POT Hours	Remedy
Gaona, RF	04235148	1.96			\$57.82
Lopez, V	03505139	1.74			\$51.33
Whitney, MS	04297913	0.91			\$26.85
Herrera, C	04540623		0.07	2.00	\$121.10
Portugal, PI	04487802		2.00	0.00	\$88.50
Anderson, PL	01947020		0.15	2.00	\$124.64
Armeli, MN	04330319		0.00	1.95	\$115.05
Marin, RC	01977196		0.53	1.98	\$140.27
Dietz, DD	03490500		0.00	1.40	\$82.60

**EXPLANATION:** This grievance concerns the assignment of overtime among full-time letter carriers at Nimitz Station in San Antonio, Texas on March 4, 2021. Management assigned overtime to non-ODL and WA carriers off their assignments while ODL carriers were available at the regular and penalty overtime rates.

The union filed this grievance to protest the improper overtime assignments. 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 Articles 8.5.D and G, and the Letter Carrier Paragraph, when they assigned overtime to carriers who were not on the ODL while ODL carriers were available to perform the work. The union further contends the question of whether a remedy is appropriate for non-ODL carriers improperly forced to work overtime has been settled in the union's favor innumerable times over a period of several years.

The union requests all ODL carriers be paid at the appropriate overtime rate, up to and including penalty overtime, for management's decision to bypass them in favor of non-ODL carriers. The union also requests the non-ODL carriers be either compensated an additional 100% of their straight time rate, or granted administrative leave equal to the amount of time they were improperly mandated.

**Management** contends the union failed to perform a thorough investigation. Management provided the Performance/Analysis Report showing in the morning the ODL carriers were projected to have 12 hours of work. It is not feasible to assign them more than that on the assumption they will get it done faster. Management maintains the unit has six ODL carriers, and two of them (Whaley and Anderson) are medically restricted from walking, which leaves four qualified ODL carriers. Management asserts these four carriers get all the overtime they want, and more. Moreover, management contends no carriers at Nimitz are interested in filing grievances for overtime, yet the union refused to interview any of them to verify this. Management insists there have been no grievances in 17 months thanks to arrangements made between management and the union to assign overtime based on daily volunteering by all carriers.

**The DRT** reviewed the case file and determined there was a violation of Article 8.5 on March 4, 2021 when the overtime among full-time carriers 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.

Management indicated all the non-ODL carriers volunteered for overtime, but the case file contained statements from only two of them (Flores and Tsai). Time and Attendance records in the file show Tsai didn't work overtime on March 4 anyway. Management also contended all the ODL carriers were scheduled into penalty overtime, but the case file contained no PS Forms 3996 confirming this. Because DOIS records cannot form the sole basis for a carrier's leaving or returning time, and because the ODL carriers' actual time worked was significantly less than the Performance/Analysis Report projections, the DRT could not agree the ODL carriers had all been assigned 12 hours of work. Only one ODL carrier worked any penalty overtime at all on this day (Armeli worked 10.05 hours, of which about three minutes was penalty overtime).

Overtime for non-ODL carriers *on their own assignments* is governed by the Letter Carrier Paragraph, which is found 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.

(The complete text of this memorandum is reprinted at the end of this article.)

National Arbitrator Mittenenthal ruled in H4N-NA-C 21, June 26, 1986 (C-06297), that the letter carrier paragraph is an enforceable obligation.

**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.

The assignment of overtime to non-ODL carriers off their assignments or on a non-scheduled day is also discussed on page 8-15:

RIO GRANDE DISPUTE RESOLUTION TEAM  
10410 Perrin Beitel Road, Rm 1059  
San Antonio, TX 78284-9608  
PHONE 210-368-5547, 210-368-1760, 210-368-1784, FAX 210-368-8525

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).  
[Emphasis Added]

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


*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].*

Management stated all non-ODL carriers volunteered for overtime, but the case file only contained statements from Flores and Tsai confirming they volunteered. Because Flores volunteered, the DRT agreed no remedy was appropriate for him because he worked overtime on his nonscheduled day. However, because the ODL was bypassed to enable him to work that overtime, the DRT agreed to remedy the ODL for the violation.

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  
Texas 3 District HR Manager  
Texas 3 District LR Manager  
USPS Formal A L.F. Ossont

NALC Branch President  
NALC Formal A Raul Reyes  
Manager, Texas 3 District  
Postmaster  
DRT File

**Grievance File Contents:**

PS Form 8190 - 2 pgs  
Steward Designation  
Union Contentions - 9 pgs  
Violation/Remedy Spreadsheets – 6 pgs  
Hours Analysis Report – 7 pgs  
Schedule - 2 pgs  
Request for Information/Steward Time  
Employee Moves Report - 3 pgs  
Request for Formal Step A Meeting

Request for Information/Time/Meeting  
Management Cover Sheet  
Management Contentions - 4 pgs  
Request for Information/Time/Meeting  
Management: All Volunteered  
Non-ODL Carrier Statements - 2 pgs  
PS Forms 3996  
Performance/Analysis Report - 4 pgs

## Payout Request History for Grievance

21175923

[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>
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### 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	\$26.85	WHITNEY	MATTHEW	4432	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$51.33	LOPEZ	VICTOR	7898	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$57.82	GAONA	RUBEN	1099	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$82.60	DIETZ	DAVID	3462	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$88.50	PORTUGAL	PAUL	3792	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$115.05	ARMELI	MATTHEW	7192	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$121.10	HERRERA	CRISTINA	8270	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$124.64	ANDERSON	PAUL	9690	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
New		2	\$140.27	MARIN	RUBEN	9859	PP6 FY2021	YSZ1BC	05/20/2021	<input type="button" value="Det"/>
Total New: \$808.16										
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											