

RESOLVE



STEP B DECISION

USPS Step B:	Decision:	<u>RESOLVE</u>
Rose Barner	USPS Number:	G16N-4G-C 2115 2286
NALC Step B:	Grievant:	Class
Jim Ruetze	Branch Grievance Number:	421-1509-21
	Branch:	421
	Installation:	Eagle Pass
District:	Delivery Unit:	MPO
Rio Grande	State:	TX
	Incident Date:	02/24/2021
	Informal Step A Initiated:	03/10/2021
	Formal Step A Meeting:	03/16/2021
	Received at Step B:	03/18/2021
	Step B Decision Date:	04/14/2021
	Issue Code:	17.3000
	NALC Subject Code:	508998

ISSUE: Did management violate Article 15 and 17 of the National Agreement when the steward was unable to complete the union's full detailed statement of disputed facts and contentions on the day of the Formal A meeting? If so, what is the remedy?

DECISION: The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The union representative must be given reasonable time on the clock to write Formal A contentions in accordance with Article 17 of the National Agreement. See the DRT Explanation below.

EXPLANATION: The union filed this grievance contending the steward was not given paid time on the clock for handling a grievance when it was necessary for him to prepare his contentions after the Formal A meeting on February 24, 2021. The union filed this grievance to protest management's failure to provide the steward time for this reason. Unable to achieve a resolution through the Informal or Formal Step A levels of the grievance process, the union appealed the grievance to Step B.

The union at Formal Step A contended after the meeting management's Formal Step A representative would not give the steward time to write contentions and would not agree to an extension of the meeting. When the steward requested an extension, the manager declined and ordered the grievant to deliver his route and return at 3:30 p.m. to mail out the Step B appeal.

The union requested an instructional cease and desist regarding management's failure to provide steward time necessary for the union to write contentions and to fully develop the case file on the day of the Formal A meeting. The union also requested the steward be paid a lump sum of \$20.00 to serve as an incentive for future compliance.

Management at Formal Step A contended the DRT told the parties in a phone conversation that the union is required to provide all relevant documentation at the Informal Step A meeting, to include contentions. Management maintained the steward provided no documentation with the Formal Step A appeal, making this grievance procedurally defective. Management further asserted the steward time is documented to prove and prevent any violation of the National Agreement.

The DRT reviewed the case file and determined with respect to the steward's obligations at Informal Step A and Formal Step A, the DRT must remind the parties of the instructions given in the joint call to which management referred. There is no requirement for written contentions before, during, or after the Informal Step A meeting. There is no requirement for the appeal to Formal Step A to include the union's written contentions. The appeal to Formal Step A must include the PS Form 8190 and all documentation that was **shared and discussed** in the Informal Step A meeting. The case file does not indicate what happened in the Informal Step A meeting, so no determination can be made regarding management's claim the union did not provide additional documentation with the Formal Step A appeal. If, for example, the parties did not "share and discuss" any documentation in the Informal Step A meeting, there would be no contractual requirement to include any other documentation. However, the contract encourages the parties to jointly review all relevant documents in the Formal Step A meeting to facilitate resolution of the dispute.

Written contentions by the Formal Step A parties are only necessary if the grievance is being appealed to Step B. If the parties were to resolve the grievance at Formal Step A, as the contract encourages, there would be no reason for written contentions at all. The Employee Moves Reports management provided to prove the steward received steward time all indicate the time given predated the Formal Step A meeting. It cannot be concluded the time on those reports was granted for the purpose of writing the Step B appeal. In this case, once the parties determined they would not resolve the grievance, that was the time the contentions were to be written.

The DRT agreed the union representative must be given time on the clock to write contentions as part of the grievance handling process. Page 17-3 of the JCAM provides, in relevant part:

Steward Rights—Activities Included. A steward may conduct a broad range of activities related to the investigation and adjustment of grievances and of problems that may become grievances. These activities include the right to review relevant documents, files and records, as well as interviewing a potential grievant, supervisors and witnesses. Specific settlements and arbitration decisions have established that a steward has the right to do (among other things) the following:

- Complete grievance forms and write appeals on the clock (see below).

Right to Steward Time on the Clock. Although a steward must ask for supervisory permission to leave his or her work area or enter another one to pursue a grievance or potential grievance, management cannot "unreasonably deny" requests for paid grievance-handling time.

The appropriate remedy in a case where management has unreasonably denied a steward time on the clock is an order or agreement to cease and desist, plus payment to the steward for the time spent processing the grievance off-the-clock which should have been paid time.

Based on its review of the case file, the DRT agreed to the decision 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 Raul Salazar

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
Request for Steward Time – 2 pgs
Union Contentions – 3 pgs
Table of Contents
Management Contentions - 4 pgs
Employee Moves Report – 5 pgs

Time Log Per Investigation (Grievance)
Informal Step A Meeting Request – 2 pgs
Carrier Schedule
Excerpts from Steward Handbook – 8 pgs
ODL
Grievance #421-1391-21 – 3 pgs