

RESOLVE



STEP B DECISION

USPS Step B:	Decision:	RESOLVE
Rose Barner	USPS Number:	G16N-4G-C 2112 2348
NALC Step B:	Grievant:	Adam Hernandez
Jose Portales	Branch Grievance Number:	421-1393-21
	Branch:	421
	Installation:	Eagle Pass
District:	Delivery Unit:	Main Post Office
Rio Grande	State:	TX
	Incident Date:	02/09/2021
	Informal Step A Initiated:	02/17/2021
	Formal Step A Meeting:	02/24/2021
	Received at Step B:	03/03/2021
	Step B Decision Date:	03/12/2021
	Issue Code:	10.2700
	NALC Subject Code:	600264

ISSUE: Did management violate Article 19 of the National Agreement via Memorandum of Understanding (MOU) Re: Temporary Additional Paid Leave for CCAs by failing to pay 80 hours of paid leave for use in conjunction with the COVID-19 pandemic when the grievant was instructed by management to quarantine for 14 days? If so, what is the remedy?

DECISION: The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The DRT agreed the union's case had merit. The grievant must submit a PS Form 3971 in order to request his leave to be changed to TACS Code 086, Other Paid Leave for up to 80 hours as stated in the MOU Re: Temporary Additional Paid Leave for CCAs. See the Explanation below.

EXPLANATION: The grievant in this case is Adam Hernandez, a City Carrier Assistant (CCA) to the Main Post Office in Eagle Pass, Texas. On January 25, 2021 the grievant notified management his wife had tested positive for COVID-19 and proceeded to self-quarantine for two days awaiting the results of his COVID-19 test. Upon receipt of a negative result, the grievant notified management and was instructed to complete a 14-day quarantine. The grievant requested 80 hours of paid leave in accordance with the MOU for temporary additional paid leave for CCAs.

The union filed this grievance to protest management's decision not to pay the requested 80 hours of paid leave in accordance with the MOU. 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 on February 24, 2021 the union and management had a scheduled Formal A meeting. After discussing the grievance management representative Raul Salazar said he would not provide union time to work on contentions. The union contended he submitted a request for steward time to the immediate supervisor Jose Aguilera and he stated on February 25, 2021 time would be provided to write contentions; however, management would not agree to an extension on the Formal A meeting. The union contended the grievant be paid the hours of extended COVID leave.

The union requested CCA Adam Hernandez be paid the hours of extended COVID leave.

Management at Formal Step A contended the union failed to provide any contentions and all relevant documentations under Article 15.2 at Informal or Formal A meeting. The union presented only one paper for the Formal A meeting with the time and date of the meeting. Management contended employees can use personal paid leave until March 26, 2021 and be coded 086 in the Time Attendance Control System (TACS). Upon the grievant's return to work he never completed a PS Form 3971 to request or designate the absence in question as COVID-19. Therefore, management is unable to input any form of leave except leave without pay. Management contended the terms of the stated protocol and MOU have been complied with.

The DRT reviewed the case file and determined it did not evidence a request for Temporary Additional Paid Leave for CCAs was made on PS Form 3971. The grievant stated he notified management as soon as his first COVID-19 test results were negative. However, the grievant was instructed to self-quarantine for 14 days. In accordance with the MOU protocol requirements, the CCA must submit PS Form 3971 and explain the reason for the emergency or illness to their supervisor. The MOU states in relevant part:

Re: Temporary Additional Paid Leave for CCAs (extended until March 26, 2021)

For the 60-day duration of this Memorandum of Understanding, City Carrier Assistants (CCAs) will be permitted to use up to 80 hours of paid leave for use in conjunction with the COVID-19 pandemic in the following circumstances:

- *The employee has contracted COVID-19 or has been directly exposed to someone with COVID-19;*
- *The employee has visited any country identified by the Centers for Disease Control (CDC) as a level-3 country (currently China, South Korea, Iran, Italy, and most other European countries) within 14 days of the employee returning to work;*
- *The employee returns from a trip on a cruise ship in which an identified case of COVID-19 was detected on board the ship;*
- *The employee is experiencing symptoms generally associated with COVID-19; or*
- *Consistent with the MOU Re: Temporary Expanded Sick Leave for Dependent Care During COVID-19.*

Leave used for the above purpose will be coded as TACS Code 086, Other Paid Leave.

*Except for emergencies paid leave for the circumstances listed above **must be requested on PS Form 3971, Request for or Notification of Absence, and approved in advance by the appropriate supervisor.** Employees should designate the reason for the absence as "Other" and write "LC19" in the space provided.*

*An exception to the advance approval requirement is made for emergencies and unexpected illness; however, in these situations, the CCA must notify the appropriate postal authorities as soon as possible as to the emergency or illness and the expected duration of the absence. **As soon as possible after return to duty, CCAs must submit PS Form 3971 and explain the reason for the emergency or illness to their supervisor. Supervisors approve or disapprove the leave request.***

The supervisor is responsible for approving or disapproving the application for paid leave by signing PS Form 3971, a copy of which is given to the CCA. If a supervisor does not approve

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an application for leave, the disapproved block on PS Form 3971 is checked and the reasons must be noted in writing in the space provided.

When Formal A parties are unable to resolve a grievance during the Informal Step A of the grievance process, the parties must adhere to the following language outlined in the JCAM on page 15-3 states;

If the parties are unable to resolve the grievance during the Informal Step A meeting the union may file a written appeal to Formal Step A within 7 calendar days after the meeting. The time limits for filing a grievance at Informal Step A or appealing to Formal Step A may be extended by mutual agreement.

*The steward appeals a grievance to Formal Step A by filling out the Informal Step A portion of the NALC-USPS Joint Step A Grievance Form (PS Form 8190) and sending it to the installation head or designee. **The grievance appeal to Formal Step A should include relevant documents that were shared and discussed at the Informal Step A meeting.***
[Emphasis Added]

At the Formal A meeting, the parties are required to adhere to the following in accordance with the JCAM Page 15-5:


The union representative at the Formal Step A meeting shall discuss fully the union's position, violation alleged, and corrective action requested. Moreover, the union is entitled to furnish written statements from witnesses or other individuals who have information pertaining to the grievance. Both parties are required to state in detail the facts and contract provisions relied upon to support their positions. The Postal Service is also required to furnish to the union, if requested, any documents or statements of witnesses as provided for in Article 17.3 and Article 31.3.

If the parties are unable to reach an agreement at Formal Step A, then both parties are required to write contentions (on the clock) to submit with the case file that is sent to Step B.

Based on its review of the case file, the DRT agreed to the remedy above.



Rose Barner
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 A Raul Salazar

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

Grievance File Contents
PS Form 8190
Management Contentions - 4 pgs
Request for Steward Time
Formal Step A Meeting Request

Union Contentions
Employee Statement
Employee Everything Report – 15 pgs
Informal Step A Meeting Request – 2 pgs