



**RESOLVE**



**STEP B DECISION**

<b>Step B Team:</b>	Decision:	<b>RESOLVE</b>
USPS:	USPS Number:	<b>G16N-4G-C 2111 0402</b>
<b>Rose Barner</b>	Grievant:	<b>Class Action</b>
NALC:	Branch Grievance Number:	<b>421-1225-21</b>
<b>Jose Portales</b>	Branch:	<b>421</b>
	Installation:	<b>San Antonio</b>
District:	Delivery Unit:	<b>Laurel Heights</b>
<b>Rio Grande</b>	State:	<b>TX</b>
	Incident Date:	<b>01/16/2021-01/22/2021</b>
	Informal Step A Meeting:	<b>No Meeting</b>
	Formal Step A Meeting:	<b>02/11/2021</b>
	Received at Step B:	<b>02/18/2021</b>
	Step B Decision Date:	<b>03/12/2021</b>
	Issue Code:	<b>08.5450</b>
	NALC Subject Code:	<b>120051</b>

**ISSUE:** Did management violate Articles 8.5.D and 5.G of the National Agreement when working non-Overtime Desired List (ODL) and Work Assignment (WA) carriers on/off assignments while ODL carriers were available during the week of January 16-22, 2021? 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 assignment of overtime during the week in question was inconsistent with the requirements in Article 8.5. Non-ODL and WA carriers received compensation equal to 100% of their straight time rate for the hours they were improperly assigned to work overtime. ODL carriers were compensated at the overtime rate for the missed overtime opportunities. Management will assign overtime consistent with the provisions of Article 8.5. See the DRT Explanation below.

Employee	EIN	Hours	Remedy
Gonzalez-Luna, E.	04438379	2.17	\$64.02
Lopez, J.	04516996	1.37	\$40.42
Salazar, C.	04540559	0.85	\$25.08
Hall, M.	04619804	1.57	\$46.32
Chase, I.	04647111	0.85	\$25.08
Garcia, R.	04647114	1.26	\$37.17
Locke, T.	04553650	1.26	\$74.34
Garcia, T.	03530404	1.08	\$63.72
Matos, I.	04511989	1.08	\$63.72
Tapia, R.	01977427	0.85	\$50.15
Pizana, F.	03673811	0.85	\$50.15
Santos, F.	02099833	1.57	\$92.63
Roose, A.	04235187	1.37	\$80.83

**EXPLANATION:** This grievance concerns the assignment of overtime among full-time letter carriers at the Serna Station in San Antonio, Texas during the week of January 16-22,2021. During this week

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non-ODL and WA carriers worked overtime on and off their assignments while ODL carriers were available at the regular overtime and penalty overtime rate.

The union filed this grievance to protest management's decision to improperly assign overtime to the non-ODL and WA carriers. Unable to resolve the dispute through the Informal A and Formal A steps of the grievance procedure, the union appealed to Step B.

**The union** contended at Formal Step A management violated Article 8.5D and 8.5G of the National Agreement when they improperly utilized non-ODL and WA carriers to carry auxiliary assistance off their assigned routes into overtime. The non-ODL and WA carriers were utilized improperly because management refused to seek the use of available ODL carriers up to 12 hours per day and 60 hours per week. The union contended there is no justification of these violations considering the number of available hours of ODL carriers. Further the ODL is to excuse full-time carriers not wishing to work overtime from having to do so. Although CCAs would not be due a remedy, CCAs should work that overtime before assigning it to a non-ODL. Failure to do so demonstrates management's complete disregard of good faith bargaining. Lastly, the union asserted management contended no extension was granted at the Informal Step A meeting by Supervisor Rosa Morales on January 30, 2021. The union made management aware that the Informal Step A meeting needed to take place on January 30, 2021 when Supervisor Ken Turner signed/initiated the RFI request. However, Supervisor Turner he refused to meet at the direction of Manager Castillo.

The union requested 100% at the straight rate of pay for the aggrieved non-ODL and WA carriers and payment to ODL carriers at the overtime rate they would have been paid.

**Management** at Formal Step A contended the grievance was sent up due to it being untimely. Article 8 infraction dates were January 16-22, 2021. Management contended there was no agreed extension on this grievance.

**The DRT** reviewed the case file and determined the grievance was timely filed at Informal Step A. Although management contended the grievance was untimely, the case file evidence the union requested to meet at Informal Step A on January 30, 2021, 14 days from the date of the incident (January 16, 2021). Management at Formal Step A did not refute the union's contention that an effort was made to meet at the Informal Step A with Supervisor Turner on January 30, 2021, but he refused to meet. The DRT also determined there was a violation of Article 8.5 during the week of January 16-22, 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 assignment of overtime to non-ODL and WA carriers, off their own assignment(s), is stated on page 8-17 of the JCAM:

**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]

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:

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]*

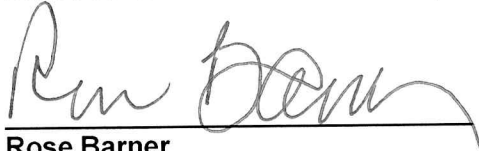
The JCAM provides the following language in respects to meeting at Informal Step A on page 15-2:

**15.2 Informal Step A**

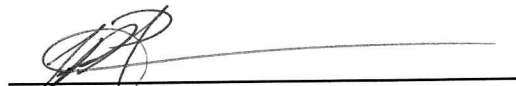
*An employee or union representative must discuss the grievance with the employee's immediate supervisor within fourteen calendar days of when the grievant or the union first learned, or may reasonably have been expected to learn, of its cause. The date of this discussion is the Informal Step A filing date.*

- If the union initiates a grievance on behalf of an individual, the individual grievant's participation in an Informal Step A meeting is neither required nor prohibited.*
- If a letter carrier instead files his or her own grievance, management must give the steward or other union representative the opportunity to be present during any portion of the discussion which involves adjustment or settlement of the grievance (Prearbitration Settlement, H7N- 5R-C 26829, April 2, 1992, M-01065).*
- Should the grievance affect more than one employee in the office, the union may initiate a class grievance on behalf of all affected employees. [Emphasis Added]*

Based on its review of the case file, the DRT agreed to the decision and 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 Step A Jose Castillo

NALC Branch President  
NALC Formal Step A Pete Velasquez  
Manager, Rio Grande District  
Postmaster  
DRT File

**Grievance File Contents**

PS Form 8190  
Union Contentions – 8 pgs  
Management Contentions  
Informal Step A Doc/Meeting Request  
Formal Step A Meeting Request  
Formal A Extension

Request for Steward Time  
Work Schedule – 2 pgs  
Employee Moves Report – 14 pgs  
Hours Analysis Report – 8 pgs  
Prior DRT Decisions -12 pgs

## Payout Request History for Grievance 21110402

[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		1	\$25.08	SALAZAR	CHRISTOPHER	2216	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$25.08	CHASE	ISSAC	3732	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$37.17	GARCIA	ROY	5090	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$40.42	LOPEZ	JACQUELYN	1893	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$46.32	HALL	MARC	8736	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$50.15	TAPIA	RUBEN	2263	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$50.15	PIZANA	FRANCISCO	1820	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$63.72	GARCIA	THOMAS	7366	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$63.72	MATOS	ISIAS	5055	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$64.02	GONZALEZ-LUNA	EMANUEL	3681	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$74.34	LOCKE	TROY	3259	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$80.83	ROOSE	ALLEN	8544	PP3 FY2021	YSZ1BC	03/12/2021
New		1	\$92.63	SANTOS	FRANCISCO	1047	PP3 FY2021	YSZ1BC	03/12/2021
Total New: \$713.63									
Total Pending: \$0.00									
Total Submitted: \$0.00									