



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2128 1413
Rose Barner	Grievant:	Class
NALC:	Branch Grievance Number:	421-1891-21
Jose Portales	Branch:	3028
District:	Installation:	San Antonio
Rio Grande/Texas 3	Delivery Unit:	Heritage
	State:	TX
	Incident Date:	05/08/2021
	Informal Step A Meeting:	05/26/2021
	Formal Step A Meeting:	06/29/2021
	Received at Step B:	06/30/2021
	Step B Decision Date:	07/29/2021
	Issue Code:	07.2260
	NALC Subject Code:	100882

ISSUE:

Did management violate Article 7, Section 2 of the National Agreement by assigning letter carrier work to rural carrier associates (RCAs) during the week of May 1-8, 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 Article 7 of the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. Management will associate the auxiliary assistance provided by the RCAs, on the days in question, to the proper city route. Management must comply with Article 7.2 when making cross-craft assignments. The lump sum payments have been processed at Step B via GATS entry. See the DRT Explanation below.

EIN	Employee	Hours	Remedy	EIN	Employee	Hours	Remedy
04021906	Polanco, D.	7.28	\$405.18	04111459	Crawford, C.	2.88	\$154.14
04067921	Herrera, R.	4.17	\$239.98	02255408	Gallardo, G.	5.22	\$291.31
04321795	Miyasato, A.	4.09	\$235.12	02231251	Salazar, L.	5.80	\$307.83
04253320	Ness, C.	0.48	\$21.24	04466415	Spearman, W.	2.25	\$121.69
04319232	Johnson, C.	3.50	\$177.00	03079708	Becerra, G.	1.50	\$88.50
02366456	McAfee, W.	1.65	\$95.14	01670818	Royster, M.	0.89	\$52.51
03209196	Bosley, K.	1.51	\$88.94	04323581	Bosley, P.	1.03	\$60.77
02078163	Montgomery, C.	0.65	\$38.35	04282477	Gomez, J.	1.50	\$88.50
02240307	Idrogo, G.	2.46	\$115.64	04318624	Friere, M.	1.81	\$102.22
06129786	Planas, I.	3.88	\$215.94	04782056	Salazar, C.	2.80	\$146.03
04816170	Reyes, G.	4.34	\$236.30	06151625	Padilla, J.	12.00	\$531.00
04754519	Rodriguez, S.	1.51	\$89.09				

EXPLANATION:

During the week of May 1-8, 2021 management at the Heritage Station in San Antonio, Texas assigned RCAs to perform city letter carrier duties.

The union filed this grievance to protest the assignment of that work to employees outside the letter carrier craft. 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 instructed 13 RCAs to perform city letter carrier duties on city routes 5036, 4553, 5129, 5058, 5007 at the Heritage Station from May 3-5, 2021. The Rural Work Hour Tracker (RWHT) Report, PS Form 1234s and Route/Carrier Daily Performance/Analysis Reports show the RCAs either delivering and/or casing mail on city routes.

The union requests management cease and desist violating Article 7 of the National Agreement. The union request management be instructed to input all assistance correctly and accurate into DOIS in order to ensure accurate data for possible future route count and inspections. The union also requests the letter carriers that were available to work be paid an amount equivalent to the number of hours worked across craft lines on the days in question at the respective overtime rates of pay. Further, the letter carriers be paid \$5 per carrier to ensure future compliance with the National Agreement and Step B settlements.

Management contends during the week in question 28.42 hours was the non-maximization violation of the ODL carriers. Management agrees there was a violation and the RCAs did perform the work due to the excessive call-ins and unscheduled absences, specifically May 3 and 4, 2021. Management contends there were no other resources available in San Antonio and therefore, they had to use the RCAs. The use of RCAs was not proficient; however, management tried to settle at the lowest level and the union had claims the payout should be at the penalty overtime rate and spread amongst all carriers, both ODL, non ODL. The union is filing this under Article 8 of the National Agreement. Management agrees the violations total closer to \$1650.00. The evidence shows mail could not have been delivered to all customers, especially business customers before closing.

The DRT reviewed the case file and determined it was a violation of Article 7.2 to assign city letter carrier work to the RCAs. The proper remedy requires the payment at the appropriate rate for the work missed to the available, qualified employee who had a contractual right to the work. Although management contended that there were no other resources available on the days in the question, the Hours Analysis Reports evidenced numerous employees that had not reached the daily and/or weekly hour work limits. Therefore, the DRT agreed the events that occurred on the days in question did not meet the definition of an "emergency" situation as defined in Article 3. The provisions in the National Agreement concerning crossing crafts are found in Article 7.2. Pages 7-31 through 7-33 in the JCAM provides the following concerning assigning city carrier work to rural carrier craft employees:

Article 7.2.B and 7.2.C provide the following relevant language concerning cross-draft assignments and remedies for violations:

7.2.B. *In the event of insufficient work on any particular day or days in a full-time or part-time employee's own scheduled assignment, management may assign the employee to any available work in the same wage level for which the employee is qualified, consistent with the employee's knowledge and experience, in order to maintain the number of work hours of the employee's basic work schedule.*

7.2.C. *During exceptionally heavy workload periods for one occupational group, employees in an occupational group experiencing a light workload period may be assigned to work in the same wage level, commensurate with their capabilities, to the heavy workload area for such time as management determines necessary. [see Memo, page 155]*

Cross-Craft Assignments. *Article 7, Sections 2.B and 2.C set forth two situations in which management may require career employees to perform work in another craft. This may involve a carrier working in another craft or an employee from another craft performing carrier work.*

Insufficient Work. *Under Article 7.2.B, management may require an employee to work in another craft at the same wage level due to insufficient work in his or her own craft. This may affect a full-time employee or a part-time regular employee for whom there is "insufficient work" on a particular day to maintain his or her weekly schedule as guaranteed under Article 8.1. Or it may apply to any employee working under the call-in guarantees of Article 8.8—i.e., a regular called in on a nonscheduled day, or a PTF employee called in on any day. This section permits management to avoid having to pay employees for not working.*

Exceptional Workload Imbalance. *Article 7.2.C provides that under conditions of exceptionally heavy workload in one craft or occupational group and light workload in another, any employee may be assigned to perform other-craft work in the same wage level.*

Limits on Management's Discretion to Make Cross-craft Assignments. *A national level arbitration award has established that management may not assign employees across crafts except in the restrictive circumstances defined in the National Agreement (National Arbitrator Richard Bloch, A8- W-0656, April 7, 1982, C-04560). This decision is controlling although it is an APWU arbitration case; it was decided under the joint NALC/APWU-USPS 1981 National Agreement and the language of Article 7.2.B & C has not changed since then. Arbitrator Bloch interpreted Article 7.2.B & C as follows (pages 6-7 of the award):*

Taken together, these provisions support the inference that Management's right to cross craft lines is substantially limited. The exceptions to the requirement of observing the boundaries arise in situations that are not only unusual but also reasonably unforeseeable. There is no reason to find that the parties intended to give Management discretion to schedule across craft lines merely to maximize efficient personnel usage; this is not what the parties have bargained. That an assignment across craft lines might enable Management to avoid overtime in another group for example, is not, by itself, a contractually

sound reason. It must be shown either that there was “insufficient work” for the classification or, alternatively, that work was “exceptionally heavy” in one occupational group and light, as well, in another.

Inherent in these two provisions, as indicated above, is the assumption that the qualifying conditions are reasonably unforeseeable or somehow unavoidable. To be sure, Management retains the right to schedule tasks to suit its need on a given day. But the right to do this may not fairly be equated with the opportunity to, in essence, create “insufficient” work through intentionally inadequate staffing. To so hold would be to allow Management to effectively cross craft lines at will merely by scheduling work so as to create the triggering provisions of Subsections B and C. This would be an abuse of the reasonable intent of this language, which exists not to provide means by which the separation of crafts may be routinely ignored but rather to provide the employer with certain limited flexibility in the fact of pressing circumstances....

Remedy For Violations. As a general proposition, in those circumstances in which a clear contractual violation is evidenced by the fact circumstances involving the crossing of crafts pursuant to Article 7.2.B & C, a “make whole” remedy involving the payment at the appropriate rate for the work missed to the available, **qualified employee** who had a contractual right to the work would be appropriate. [Emphasis Added]

Rural Carriers Excluded. Paragraph A of this Memorandum of Understanding (National Agreement page 155) provides that the crossing craft provisions of Article 7.2 (among other provisions) apply **only** to the crafts covered by the 1978 National Agreement—i.e., letter carrier, clerk, motor vehicle, maintenance and mail handler. So crosscraft assignments may be made between the carrier craft and these other crafts, in either direction, in accordance with Article 7.2. However, rural letter carriers are not included. So **crosscraft assignments to and from the rural carrier craft** may not be made under Article 7.2. They **may be made only in “emergency situations” as explained below.** [Emphasis Added]

Crossing Crafts in “Emergency” Situations. In addition to its Article 7 rights, management has the right to work carriers across crafts in an “emergency” situation as defined in Article 3, Management Rights. Article 3.F states that management has the right:

3.F. To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

This provision gives management a very limited right to make crosscraft assignments. **Management’s desire to avoid additional expenses such as penalty overtime does not constitute an emergency.** [Emphasis Added]

The JCAM provides the daily and weekly work hour limitations on page 8-13, which states:

Maximum Hours—60 Hour Limit. *National Arbitrator Mittenthal ruled in H4N-NA-C 21 "Fourth Issue," June 9, 1986 (C-06238) that the 12-hour and 60-hour limits are absolutes—a full-time employee may neither volunteer nor be required to work beyond those limits. This rule applies to all full-time employees on the ODL or Work Assignment List except during the Penalty Overtime Exclusion Period (December).*

Limitations regarding full-time employees not on the ODL or Work Assignment List, PTFs, and CCAs are governed by ELM Section 432.32. ELM Section 432.32 rules apply during the penalty overtime exclusion period (December). (Step 4, E94N-4E-C 96031540, February 25, 1998, M-01272).

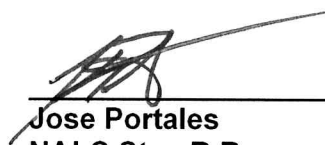
Outside of an emergency as defined in Article 3.F, management must assign city carrier work to city carriers, irrespective of classification or ODL status, before assigning such work to rural letter carriers. Based on its review of the case file, the DRT agreed to the decision and remedy above.



Rose Barner
USPS Step B Representative

cc:

LR Manager, Southern Area
NALC Region 10 NBA
Rio Grande/Texas 3 HR Manager
Rio Grande/Texas 3 LR Manager
USPS Formal A: Y. Lopez



Jose Portales
NALC Step B Representative

NALC Branch President
NALC Formal Step A: C. Crawford
Manager, Rio Grande/Texas 3
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Assist City Carrier Activity Report (5 pgs)
Union's Charts (7 pgs)
Emails (2 pgs)
Employee Everything Report (48 pgs)
Management's Contentions (4 pgs)
Hours Type Inquiry Report (14 pgs)
Employees On The Clock (8 pgs)
Route/Carrier Daily Performance/Analysis Report
(15 pgs)

Time Limit Extensions (5 pgs)
PS Form 1234 (26 pgs)
Union's Contentions (5 pgs)
Rural Weekly Schedule (3 pgs)
Prior Step B Decisions (9 pgs)
OTDL
ODL Carrier Assignments (3 pgs)
Overtime Alert Report (3 pgs)
Leave Usage Log List Report (2 pgs)

Payout Request History for Grievance

[HELP](#)

21281413

no data

Not Processed By Payroll

- New (Not yet sent to Payroll)
- Pending (Not back from Payroll)
- Submitted (Received acknowledgment from Payroll, awaiting processing)

Payroll Processed

- Paid (Back from Payroll without error)
- Payroll Error (Back from Payroll with error)

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Show History

New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Request
New		2	\$21.24	NESS	CHRIS	0063	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$38.35	MONTGOMERY	CHARLES	3495	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$52.51	ROYSTER-MARIN	MELBA	5423	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$60.77	BOSLEY	PHILLIP	1194	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$88.50	BECERRA	GABRIEL	9517	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$88.50	GOMEZ	JOE	2748	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$88.94	BOSLEY	KELVIN	2950	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$89.09	RODRIGUEZ	SAUL	5689	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$95.14	MCAFEE	WILLIAM	1854	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$102.22	FREIRE	MARIA	6093	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$115.64	IDROGO	HORACIO	5989	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$121.69	SPEARMAN	WILLIE	8975	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$146.03	SALAZAR	CHRISTOPHER	8965	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$154.14	CRAWFORD	CHAZ	5930	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$177.00	JOHNSON	CARL	5579	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$215.94	PLANAS	KRIS	4698		YSZ1BC	07/30/20

							PP10 FY2021		
New		2	\$235.12	MIYASATO	AARON	9433	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$236.30	REYES	GUILLERMO	5387	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$239.98	HERRERA	ROMAN	6504	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$291.31	GALLARDO	GAIL	0250	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$307.83	SALAZAR	LOUIS	9958	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$405.18	POLANCO	DEBORAH	1345	PP10 FY2021	YSZ1BC	07/30/20
New		2	\$531.00	PADILLA	JULIO	2291	PP10 FY2021	YSZ1BC	07/30/20
Total New: \$3,902.42									
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											