



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2124 3236
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421-1838-21
Jim Ruetze	Branch:	421
	Installation:	San Antonio
	Delivery Unit:	Nimitz
	State:	TX
District:	Incident Date:	05/01/2021-05/07/2021
Rio Grande – Texas 3	Informal Step A Meeting:	05/15/2021
	Formal Step A Meeting:	05/26/2021
	Step B Received:	06/01/2021
	Step B Decision Date:	07/08/2021
	Issue Code:	08.5450
	NALC Subject Code:	120051

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
Davidson, KB	02075319	2.98			\$87.91
Fierro, G, M	02176777	1.21			\$35.70
Bernal, RR	03523860	2.27			\$66.97
Gaona, RF	04235148	0.52			\$15.34
Zellers	04281807	0.94			\$27.73
Loera, PR	04571739	1.42			\$41.89
Whitney, MS	04297913	0.55			\$16.23
Lopez, V	03505139	1.58			\$46.61
Rhoades, DL	04219698	1.00			\$29.50
Portugal, PI	04487802	1.96			\$28.91
Whaley, KM	03683707		0.83		\$36.73
Marin, RC	01977196			1.17	\$69.03
Herrera, C	04540623		0.45	0.96	\$76.55
Dietz, DD	03490500			0.50	\$29.50
Garcia, EW	02264565		3.20	1.94	\$256.06
Flores, E	04629941			0.83	\$48.97
Macias Jr, OG	03691586			0.50	\$29.50

RIO GRANDE DISPUTE RESOLUTION TEAM
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EXPLANATION: This grievance concerns the assignment of overtime among full-time letter carriers at Nimitz Station in San Antonio, Texas during the week of May 1-7, 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 during May 1-7, 2021 when the overtime among full-time carriers was not assigned in accordance with the provisions of Article 8.5. During that week the overtime carriers did not reach the 12/60 hour limit and were still available.

Management indicated some non-ODL carriers volunteered for overtime, which the union did not refute. The carriers who volunteered were not paid a remedy, but because the ODL was improperly bypassed to allow them to work overtime, the ODL was remedied for those hours. 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.

Management at Formal Step A also maintained non-ODL carrier Gaona extended his time on an apartment complex from 30 minutes to 1 hour 55 minutes because he delivered parcels to the door because he couldn't find the Amazon parcel locker. A review of the Performance/Analysis Report showed Gaona's assignment on the other route was projected to be in excess of four hours. While DOIS reports are not dispositive of such issues, that projection coupled with the absence of a PS Form 3996 for that assignment the DRT concluded the assignment was more than 30 minutes.

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

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]

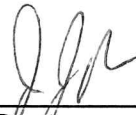
For Work Assignment carriers, the following JCAM language from page 8-22 addresses the assignment of overtime off their assignment or on a non-scheduled day:

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].

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
Union Contentions - 19 pgs
Management Contentions – 31 pgs
Route Carrier Daily Performance – 24 pgs
PS Form 3996
Formal A Settlement
Steward Designation Letter
Union Remedy Worksheets – 26 pgs

Informal Step A Request for Documentation
Formal Step A Meeting Request
Work Schedule
ODL – 2 pgs
Prior Settlements – 118 pgs
Employee Moves Report – 13 pgs
Hours Analysis Report – 7 pgs

Payout Request History for Grievance
21243236

[HELP](#)

no data

<p><u>Not Processed By Payroll</u></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><u>Payroll Processed</u></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	\$15.34	GAONA	RUBEN	1099	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$16.23	WHITNEY	MATTHEW	4432	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$27.73	ZELLERS	AARON	5155	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$28.91	PORTUGAL	PAUL	3792	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$29.50	DIETZ	DAVID	3462	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$29.50	MACIAS	OSCAR	4267	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$29.50	RHOADES	DUSTY	7045	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$35.70	FIERRO	GLEN	4530	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$36.73	WHALEY	KIRSTEN	6501	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$41.89	LOERA	PATRICK	9916	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$46.61	LOPEZ	VICTOR	7898	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$48.97	FLORES	ERICK	8001	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$66.97	BERNAL	RICHARD	3229	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$69.03	MARIN	RUBEN	9859	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$76.55	HERRERA	CRISTINA	8270	PP10 FY2021	YSZ1BC	07/08/2021	<input type="button" value=" Det:"/>
New		1	\$87.91	DAVIDSON	KEITH	0340		YSZ1BC	07/08/2021	

							PP10 FY2021			Det.
New		1	\$256.06	GARCIA	EDWARD	6319	PP10 FY2021	YSZ1BC	07/08/2021	Det.
Total New: \$943.13										
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											