



RESOLVE



STEP B DECISION

USPS Step B: Rose Barner	Decision:	RESOLVE
NALC Step B: Jose Portales	USPS Number:	G19N-4G-C 2131 6325
	Grievant:	Class
	Branch Grievance Number:	421-1486-21
	Branch:	421
	Installation:	San Antonio
Dispute Resolution Team: Rio Grande/Texas 3	Delivery Unit:	Leon Valley
	State:	TX
	Incident Date:	12/17/2020
	Informal Step A Initiated:	01/07/2021
	Formal Step A Meeting:	07/15/2021
	Received at Step B:	07/26/2021
	Step B Decision Date:	08/18/2021
	Issue Code:	31.2000
	NALC Subject Code:	505006

ISSUE: Did management violate Articles 17 and/or 31 of the National Agreement by failing to provide the union with requested information within 72 hours? If so, what is the remedy?

DECISION: The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management violated Articles 17 and 31 of the National Agreement by failing to provide requested information within 72 hours. In the future, management should respond to questions and to requests for documents in a cooperative and timely manner. When a relevant request is made, management should provide for review and/or produce the requested documentation as soon as is reasonably possible. If management delays a steward from investigating a grievance, it should inform the steward of the reasons for the delay and when time will be available. See the DRT Explanation below.

EXPLANATION: On December 17, 2020, the union alleged a request for information was provided to the management on December 9, 2020 and a second request dated January 28, 2021. Management did not provide the requested information within the required 72 hours. The union filed this grievance to protest management's failure to provide the information.

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 contends management failed to provide steward time on December 17, 2020, a date agreed upon by both parties. Management did not provide the steward time until February 13, 2021. The union also states management agreed several times to supply information within 72 hours of the requests. However, this had not been happening until after a labor charge had been filed. The union asserts management states the workload prolong the union's receipt of the information requests, yet the supervisor is always performing clerk work instead of retrieving the information.

The union requests management pay the steward \$100.00 for failing to provide information within a timely manner.

Management contends the steward has been given time to handle grievances and the steward has been given the information requested. Depending on the day and time, it may not be as soon as the steward would like, but it is provided. Management contends during the week in question staffing was a challenge both with the unscheduled and scheduled leave. The documents given to management at the Formal Step A did not contain the request for information (RFI), however it did contain a separate RFI dated December 19, 2020. Management asserts it is up to the union to prove its case.

The DRT reviewed the case file and determined management violated Articles 17 and 31 by failing to appropriately and timely respond to the union's requests for information. Article 17 of the National Agreement authorizes stewards to obtain and review information to investigate an actual or potential grievance. Article 31 of the National Agreement compels management to provide information the union needs to process grievances. Page 17-4 of the JCAM provides, in relevant part:

Steward Rights. *Article 17.3 & 17.4 establish several steward rights:*

- *The right to investigate and adjust grievances and problems that may become grievances;*
- *The right to paid time to conduct those activities;*
- *The right to obtain management information;*
- *Superseniority concerning being involuntarily transferred;*
- *An employee's right to steward representation during an Inspection Service interrogation.*

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.*
- *Interview witnesses, including postal patrons who are off postal premises (National Arbitrator Aaron, N8-NA-0219, November 10, 1980, C-03219; Step 4, H1N-3U-C 13115, March 4, 1983, M-01001; Step 4, H8N-4J-C 22660, May 15, 1981, M-00164);*
- *Interview supervisors (Step 4, H7N-3Q-C 31599, May 20, 1991, M-00988);*
- *Interview postal inspectors (Management Letter, N8-N-0224, March 10, 1981, M-00225);*
- *Review relevant documents (Step 4, H4N-3W-C 27743, May 1, 1987, M-00837);*
- *Review an employee's Official Personnel Folder when relevant (Step 4, NC-E 2263, August 18, 1976, M-00104);*
- *Write the union statement of corrections and additions to the Formal Step A decision (Step 4, A8-S-0309, December 7, 1979, M-01145).*
- *Interview Office of Inspector General [OIG] Agents.*

A steward has the right to conduct all such activities on the clock.

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.*

Management may not determine in advance how much time a steward reasonably needs to investigate a grievance (National Arbitrator Garrett, MB-NAT-562/MB-NAT-936, January 19, 1977, C-00427). Rather, the determination of how much time is considered reasonable is dependent on the issue involved and the amount of information needed for investigation purposes (Step 4, NC-S-2655, October 20, 1976, M-00671).

Steward time to discuss a grievance may not be denied solely because a steward is in overtime status (Prearbitration Settlement, W4N-5C-C 41287, September 13, 1988, M-00857). It is the responsibility of the union and management to decide mutually when the steward will be allowed, subject to business conditions, an opportunity to investigate and adjust grievances (Step 4, N-S-2777, April 5, 1973, M-00332).

If management delays a steward from investigating a grievance, it should inform the steward of the reasons for the delay and when time will be available. Likewise, the steward has an obligation to request additional time and give the reasons why it is needed (Step 4, NC-C-16045, November 22, 1978, M-00127). [Emphasis Added]

Page 31-2 of the JCAM provides, in pertinent part:

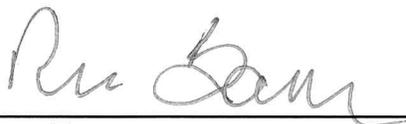
Information. *Article 31.3 provides that the Postal Service will make available to the union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of the Agreement, including information necessary to determine whether to file or to continue the processing of a grievance. It also recognizes the union's legal right to employer information under the National Labor Relations Act. Examples of the types of information covered by this provision include:*

- attendance records
- payroll records
- documents in an employee's official personnel file
- internal USPS instructions and memorandums
- disciplinary records
- route inspection records
- patron complaints
- handbooks and manuals
- photographs
- reports and studies
- seniority lists
- overtime desired and work assignment lists
- bidding records
- wage and salary records
- training manuals
- Postal Inspection Service Investigative Memoranda (IM)
- Office of Inspector General Report of Investigation (ROI)

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To obtain employer information the union need only give a reasonable description of what it needs and make a reasonable claim that the information is needed to enforce or administer the contract. The union must have a reason for seeking the information—it cannot conduct a “fishing expedition” into Postal Service records. [Emphasis Added]

Based on its review of the case file, the DRT agreed to the decision above. The DRT considered the union’s request for a monetary remedy and determined it was not appropriate at this time.



Rose Barner
USPS Step B Representative



Jose Portales
NALC 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 Juan Leal

NALC Branch President
NALC Formal A Ralph Rodriguez
Manager, Rio Grande/Texas 3
Postmaster
DRT File

Grievance File Contents

Request for Formal Step A Meeting
PS Form 8190
Union Contentions
Informal Step A – 3 pgs
Steward Statement
Prior Formal Step A Settlement – 3 pgs
Prior Informal Step A Settlement
Arbitration Award – 8 pgs

Prior Step B Decisions – 11 pgs
Pre-arbitration Settlement
Request for Steward Time
Employee Everything Report – 2 pgs
Time Limit Extensions – 13 pgs
Management Contentions – 24 pgs
Union Additions and Corrections – 3 pgs
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