



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2135 3869
Rose Barner	Grievant:	Class
NALC:	Branch Grievance Number:	421-1796-21
Jose Portales	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Leon Valley
Rio Grande/Texas 3	State:	TX
	Incident Date:	12/14/2020
	Informal Step A Meeting:	12/18/2020
	Formal Step A Meeting:	08/13/2021
	Received at Step B:	08/23/2021
	Step B Decision Date:	08/26/2021
	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) on December 4, 2020? 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. Management must comply with Article 7.2 when making cross-craft assignments for delivery of city parcels, which require such assignments be made only in emergency situations. See the DRT Explanation below.

EXPLANATION:

On December 4, 2020 management at the Leon Valley 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 PS Forms 1234 shows "parcel run" times for December 4, 2020. However, the union was never allowed to interview any of the RCAs for this grievance. It is the union's contends the RCAs were instructed to deliver city parcels. The union wishes to interview all the RCAs to determine whether they are delivering city or rural parcels. The fact that management does not allow the union to interview any of the RCAs should indicate at least some of the parcel runs made by the RCAs are city parcels.

The union requests management allow them to interview RCAs or any employees when the need arises. The union requests management pay each city carrier and CCA assigned to the Leon Valley Station \$100.00 for violating Article 7.

Management contends the union has not proven a violation of Article 7 exist. The union steward claims management did not allow him to interview any of the RCAs; however, management was provided a questionnaire from the steward for the RCAs. However, the union did not get responses from the RCAs to these questions. If the union steward did not receive time to interview the RCAs as he stated, then why did he leave the forms with the RCAs to complete. Management contends the only time RCAs are used is for parcel runs in emergency situations.

The DRT reviewed the case file and determined it is improper for management to assign city letter carrier work to the RCAs. Therefore, the DRT agreed the events that occurred on the day in question did not meet the definition of an “emergency” situation as defined in Article 3.

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).

The case file evidence previous Step B decisions instructing management to adhere to the provisions of Article 7.2 of the National Agreement when making cross-craft assignments. Therefore, the Step B Team agreed future violations of Article 7.2 may result in a compensatory remedy for non-compliance.

The JCAM provides, on page 15-8, when dealing with similar cases to avoid repetition of disputes or similar issues that have been previously decided in that installation.

Step B Decision. The Dispute Resolution Team must make a decision within fourteen calendar days after receipt of the appeal from Formal Step A, unless this time limit is mutually extended. The written Step B decision must state the reasons for the decision in detail and include a statement of any additional facts

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
Victoria, TX 78284-9608
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

or contentions not set forth in the grievance as appealed from Formal Step A. The Step B team must attach to the decision a list of all documents included in the file.

A Step B decision establishes precedent only in the installation from which the grievance arose. For this purpose, precedent means that the decision is relied upon in dealing with subsequent similar cases to avoid the repetition of disputes on similar issues that have been previously decided in that installation. [Emphasis Added]

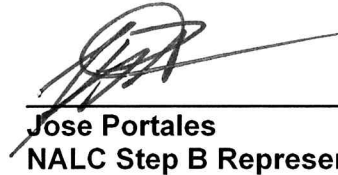
Outside of an emergency as defined in Article 3.F, management must assign city carrier work to city carriers, irrespective of classification or ODL status, before assigning such work to rural letter carriers. Based on its review of the case file, the DRT agreed to the decision and remedy above.



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: Juan Leal



Jose Portales
NALC Step B Representative

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

Grievance File Contents

Table of Contents
Request for Formal A Meeting
Informal Step A Documentation Req – 2 pgs
PS Form 8190 – 3 pgs
Union Contentions
Daily Available Hours – 2 pgs
RCAs Interviews – 3 pgs
Note from D McDowell

Time Limit Extensions (5 pgs)
Request for Steward Time – 12 pgs
Time Limit Extensions – 26 pgs
Management Contentions – 2 pgs
Union Additions & Corrections – 2
PS Form 1234 – 9 pgs
Prior Step B Decisions – 12 pgs