



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2133 4447
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421-2160-21
Jose Portales	Branch:	421
District:	Installation:	San Antonio
Rio Grande/Texas 3	Delivery Unit:	Laurel Heights
	State:	TX
	Incident Date:	07/17/2021
	Informal Step A Meeting:	07/30/2021
	Formal Step A Meeting:	08/06/2021
	Received at Step B:	08/09/2021
	Step B Decision Date:	08/19/2021
	Issue Code:	08.5450
	NALC Subject Code:	120051

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 and off their routes by improperly assigning overtime during the week of July 17-23, 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 letter carriers in the table below are compensated in the amounts by their names. Carriers who were improperly assigned to work overtime were compensated an 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 performed the work. Management must 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.

EIN	Employee	Hours	Remedy	EIN	Employee	Hours	Remedy
04271062	Charles, R	0.63	\$18.59	04471150	Harrison, T	4.68	\$138.06
04726788	Bjork, H	0.71	\$20.95	04553650	Locke, T	1.76	\$51.92
04438379	Gonzales Luna	1.16	\$34.22	04367995	Guajardo, P	2.58	\$152.22
04647114	Garcia, R	1.67	\$49.27	04235187	Roose, A	0.89	\$52.51
04660658	Campos, J	2.45	\$144.55	04574903	Charriez, L.	1.04	\$61.36

EIN	Employee	Over 12/60	Remedy
02330764	Mead, D.	3.31	\$48.82
04410218	Henderson, D.	0.81	\$11.95
03673811	Pizana, F.	1.01	\$14.90
04511989	Matos, I.	1.60	\$23.60

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at the Laurel Heights Station in San Antonio, Texas during the week of July 17-23, 2021. During the week cited, management assigned overtime to non-ODL and (WA) carriers off their assignments while ODL carriers were available at the regular overtime and penalty overtime rates.

The union filed this grievance to challenge management's violation of Article 8. Unable to resolve the dispute through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contended at Formal Step A management violated Article 8.5.D of the National Agreement and M-00884 when they mandated non-ODL/WA carriers to carry overtime on their own routes and carry auxiliary assistance on other routes during the work week of July 17-23, 2021 prior to fully utilizing the ODL and City Carrier Assistant (CCA) carriers.

The union requested all ODL and CCA carriers be compensated for the overtime missed from the week of July 17-23, 2021. Also, the non-ODL/WA carriers be compensated 100% of the straight time rate or administrative leave be given to them for the inconvenience (unable to spend time or plan activities with family, schedule or go to appointments, etc.) of being mandated to carry auxiliary assistance on their own routes and other routes. Also, the union requested management cease and desist from this practice.

Management at Formal Step A disagreed with the steward's decision to pay ODL at overtime rate plus penalty. The steward requested RFI for the entire pay period week. He also submitted PS Form 8190s for the week; however, he is challenging one day versus the entire week. Management disagreed to pay the ODL carriers at the overtime rate when they have already exceeded 4 hours in the work week which shows they are receiving overtime pay. Management agreed to pay the violation for not capitalizing on maximizing for the week or violating of the 12/60 which is not the case.

The DRT reviewed the case file and determined overtime among full-time carriers during the week of July 17-23, 2021 was not assigned in accordance with the provisions of Article 8.5. During the week in question the overtime carriers had still not reached the 12/60 hour limit and were still available. Therefore, the non-ODL carriers were compensated even if no remedy was available for the ODL carriers since they reached the 60 hour limit later in the week. Overtime for non-ODL carriers *on their own assignments* is governed by the Letter Carrier Paragraph, which is found 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. (The complete text of this memorandum is reprinted at the end of this article.)

National Arbitrator Mittenthal ruled in H4N-NA-C 21, June 26, 1986 (C-06297), that the letter carrier paragraph is an enforceable obligation.

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. [Emphasis Added]

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 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]

On page 8-22, the JCAM clarifies that the “work assignment” for the purpose of assigning overtime to Carrier Technicians on the WA list consists of all five routes on the string:

Carrier Technicians on the Work Assignment List are considered available for overtime on any of the routes on their string. Subject to the penalty overtime exceptions discussed above, this provision should be applied as follows:

- A Carrier Technician who has signed for Work Assignment overtime has both a right and an obligation to work any overtime that occurs on any of the five component routes on a regularly scheduled day.
- When overtime is required on the regularly scheduled day of the route of a carrier who is on the ODL and whose Carrier Technician is on the Work Assignment List, the Carrier Technician is entitled to work the overtime.

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- *When overtime is required on the regularly scheduled day of the route of a carrier who is on the Work Assignment List and whose Carrier Technician is also on the Work Assignment List, the regular carrier on the route is entitled to work the overtime. [Emphasis Added]*

As it pertains to the 12 hours/60 day hours rule, the JCAM states the following:

On October 19, 1988 the national parties signed the following Memorandum of Understanding (M-00859):

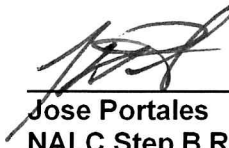
*The parties agree that with the **exception** of December, full-time employees are prohibited from working more than 12 hours in a single work day or 60 hours within a service week. In those limited instances where this provision is or has been violated and a timely grievance filed, full-time employees will be compensated at an additional premium of 50 percent of the base hourly straight time rate for those hours worked beyond the 12 or 60 hour limitation. The employment of this remedy shall not be construed as an agreement by the parties that the Employer may exceed the 12 and 60 hour limitation with impunity.*

As a means of facilitating the foregoing, the parties agree that excluding December, once a full-time employee reaches 20 hours of over-time within a service week, the employee is no longer available for any additional overtime work. Furthermore, the employee's tour of duty shall be terminated once he or she reaches the 60th hour of work, in accordance with Arbitrator Mittenthal's National Level Arbitration Award on this issue, dated September 11, 1987, in case numbers H4NNA-C 21 (3rd issue) and H4C-NA-C 27 (C-07323). [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/Texas 3 HR Manager
Rio Grande/Texas 3 LR Manager
USPS Formal Step A: Monèe Davis

NALC Branch President
NALC Formal Step A: Pete Velasquez
Manager, Rio Grande/Texas 3
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions – 4 pgs
Management Contentions
Union Remedy Worksheet
Employee Moves Report – 19 pgs
Hours Analysis Report – 9 pgs

Prior DRT Decisions – 8 pgs
MOU 00884 – 2 pgs
Carrier Schedule
ODL
Formal Step A Meeting Request
Request for Information – 2 pgs

Payout Request History for Grievance 21334447

[HELP](#)

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 Requested
New		1	\$11.95	HENDERSON	DERRICK	0949	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$14.90	PIZANA	FRANCISCO	1820	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$18.59	CHARLES	RAYMOND	2326	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$20.95	BJORK	HARLEY	1049	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$23.60	MATOS	ISIAS	5055	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$34.22	GONZALEZ-LUNA	EMANUEL	3681	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$48.82	MEAD	DAVID	0758	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$49.27	GARCIA	ROY	5090	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$51.92	LOCKE	TROY	3259	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$52.51	ROOSE	ALLEN	8544	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$61.36	CHARRIEZ	LERKA	2244	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$138.06	HARRISON	THOMAS	3951	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$144.55	CAMPOS	JOSE	8416	PP16 FY2021	YSZ1BC	08/20/2021
New		1	\$152.22	GUAJARDO	PEDRO	4737	PP16 FY2021	YSZ1BC	08/20/2021
Total New: \$822.92									
Total Pending: \$0.00									