

RESOLVE



STEP B DECISION

Step B Representatives:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2208 2262
Richard Ketchum	Grievant:	Class
NALC:	Branch Grievance Number:	421-0013-22
Jose Portales	Branch:	421
	Installation:	San Antonio
Dispute Resolution Team:	Delivery Unit:	Hackberry
Rio Grande	State:	TX
District:	Incident Date:	12/18/2021-12/24/2021
Texas 3	Informal Step A Meeting:	01/13/2022
	Formal Step A Meeting:	01/20/2022
	Received at Step B:	01/21/2022
	Step B Decision Date:	02/23/2022
	Issue Code:	08.5450
	NALC Subject Code:	120051

ISSUE: Did management violate Articles 8.5. and/or 19 (via ELM 432) of the National Agreement when working non-Overtime Desired List (ODL) and Work Assignment (WA) carriers on and off their routes into overtime on December 18-24, 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 carriers in the table below will be compensated the listed amounts. 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. The carriers listed in the 12/60 column will be compensated an additional 50% of their straight time rate for exceeding their daily work limits. Management will ensure the 12-hour limit is enforced for all letter carriers. All payments associated with these remedies have been processed at Step B through GATS. See the DRT Explanation below.

Employee	EIN	100% Hrs	12/60 Hrs	OT Hrs	REMEDY
Dearstyne, M.	04563701	1.5			\$44.25
Gomez JR., R.	04673224	1.34			\$39.53
Medina, A.	04613685	0.97			\$28.62
Torres, R.	04659421	1.44			\$42.48
Morales, F.	04258547			1.44	\$63.72
Gallegos, R.	04525946			0.48	\$21.24
Brown, D.	04647117			0.48	\$21.24
Mason, R.	04235184			0.88	\$38.94
Coats, C.	04061463			0.47	\$20.80
Woolery, D.	04808069		0.37		\$5.46
Tolefree, L.	04929895		0.62		\$9.15
Carillo, J.	06175498		0.34		\$5.02

EXPLANATION: This grievance concerns the assignment of overtime among full-time letter carriers at the Hackberry Station in San Antonio, Texas during the week of December 18-24, 2021. On those days management assigned overtime to WA and non-ODL carriers on and off their assignments while the ODL carriers were not maximized.

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 of the National Agreement by failing to provide the auxiliary assistance that was available to prevent non-ODL and WA carriers from working overtime on and off their assignments. Management failed to utilize available ODL and part-time flexibles (PTFs) carriers, city carrier assistants (CCAs) before mandating non-ODL and WA carriers as is clearly in the Joint Contract Administration Manual (JCAM).

Carriers being given overtime assignments off their assignment do not need to submit a PS Form 3996 since management gives the assignments and know they will be in overtime.

Management at Formal Step A contended there was no violation of Articles 3, 5, or 8.5 of the National Agreement or the Letter Carrier Paragraph during the week of December 18-24, 2021. ODL carriers, PTF carriers, and CCAs were maxed out prior to WA and non-ODL carriers worked overtime on/off their assigned routes.

Management contended all ODL, PTF and CCA carriers are maxed daily according to the Workload Status Report. All ODL carriers were scheduled to work their SDO and assigned 60 hours of work during the week in question. PTF and CCA carriers worked penalty overtime daily. Management contends the ODL and CCA carriers were exhausted and there were still work hours needed, giving management the rights under Articles 3, 8.5, 15 and 19 of the National Agreement to require non-ODL and WA carriers to work off their assignments during the week of December 18-24, 2021.

The DRT reviewed the case file and determined overtime among full-time carriers during the day in question was not assigned in accordance with the provisions of Article 8.5. The assignment of overtime to non-ODL carriers off their assignments or on a non-scheduled day is discussed 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 Mittenenthal 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.

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]*

As it pertains to the 12 hours/60 day hours rule, the JCAM states the following on pages 8-20 through 8-21:

Maximum Hours—12 Hour Limit. *The overtime limits in Article 8.5.G apply only to full-time regular and full-time flexible employees. However, ELM Section 432.32 provides the following rule that applies to all employees:*

Except as designated in labor agreements for bargaining unit employees or in emergency situations as determined by the PMG (or designee), employees may not be required to work more than 12 hours in 1 service day. In addition, the total hours of daily service, including scheduled work hours, overtime, and mealtime, may not be extended over a period longer than 12 consecutive hours. Postmasters, Postal Inspectors, and exempt employees are excluded from these provisions.

*Because this language limits total daily service hours, including work and mealtime, to 12 hours, all letter carriers not on the ODL or Work Assignment List (including PTFs and CCAs) are effectively limited to 11½ hours per service day. This is true whether or not a meal break is taken. **This rule also applies during the penalty overtime exclusion period (December).***

However, the ELM also permits the collective bargaining agreement to create exceptions to this general rule.

The only exception to this rule in the NALC National Agreement is for full-time employees on the ODL or Work Assignment List who, in accordance with Article 8.5.G,

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For WA letter 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 added]

Based on its review of the case file, the DRT agreed to the decision and remedy above.



Richard Ketchum
USPS Step B Representative



Jose Portales
NALC Step B Representative

cc:

LR Manager, Southern Area
NALC Region 10 NBA
District HR Manager
District LR Manager
USPS Formal Step A: Eric Cordova

NALC Branch President
NALC Formal Step A: Matthias Dearstyne
District Manager
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Union Contentions – 4 pgs.
Union Spread Sheets – 5 pgs.
Managements Contentions – 6 pgs.
Informal A notes
Employee Everything Report – 56 pgs.
Overtime Alert Report – 2 pgs.

Weekly Schedule
4th QTR OTDL
PS Form 3996 – 8 pgs.
Formal Step A Request
Informal Step a Request
RFI

22082262

HELP

<p>Not Processed By Payroll</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>Payroll Processed</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>
<p>< Back</p>	<p>Show History</p>

New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested	Buttons		
New		1	\$5.02	CARRILLO	JOSE	3271	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$5.46	WOOLERY	DAVID	7183	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$9.15	TOLEFREE	LADEREK	7312	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$20.80	COATS	CONNIE	4142	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$21.24	GALLEGOS	RONNIE	1058	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$21.24	BROWN	DOMINIQUE	7455	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$28.62	MEDINA	ANTHONY	8740	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$38.94	MASON	ROMEN	6865	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$39.53	GOMEZ	ROLAND	0419	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$42.48	TORRES	RUBEN	9166	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$44.25	DEARSTYNE	MATTHIAS	4460	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
New		1	\$63.72	MORALES	FABIAN	8276	PP1 FY2022	VY5GH0	02/28/2022	Details	Delete	Edit
Total New: \$340.45												
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	Buttons
No Data												
Total Paid: \$0.00												
Total Error: \$0.00												