



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G19N-4G-C 2210 6379
Richard Ketchum	Grievant:	Francisco Gonzales
NALC:	Branch Grievance Number:	421
Jose Portales	Branch:	421-0117-22
	Installation:	San Antonio
Dispute Resolution Team:	Delivery Unit:	Dobie
Rio Grande	State:	Texas
District:	Incident Date:	01/03/2022
Texas 3	Informal Step A Meeting:	01/20/2022
	Formal Step A Meeting:	02/03/2022
	Step B Received Date:	02/10/2022
	Step B Decision Date:	03/03/2022
	Issue Code:	10.7000
	NALC Subject Code:	100701

ISSUE: Did management violate Article 10 of the National Agreement and Section 513 of the Employee and Labor Relations Manual (ELM) when they failed to honor the grievant's request for Family Medical Leave Act (FMLA) Sick Leave? If so, what is the remedy?

Did management violate Article 11 of the National Agreement when they failed to pay the grievant holiday pay for Christmas Day and New Years Day? 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. Within seven (7) days upon receipt of this decision, management will process a pay adjustment to pay the grievant for the requested 56 hours of FMLA sick leave from December 23, 2021 through January 2, 2022. The grievant will also be paid for the Christmas and New Year's Day Holidays. Documentation showing the pay adjustment will be furnished to the union's Formal Step A representative when it is processed. See the DRT Explanation below.

EXPLANATION: The grievant in this case is Francisco Gonzales, a full-time carrier assigned to the Dobie Station in San Antonio, TX with seniority dating to May 18, 2002. The grievant called in sick for the dates of December 23, 2021, through January 2, 2022. The grievant returned to work on January 3, 2022 and submitted three PS Form 3971s requesting to use FMLA sick leave to cover his absences.

The union filed this grievance to challenge management's decision to charge the grievant with Leave Without Pay (LWOP) and for failing to pay him holiday pay. Unable to achieve a resolution at the Informal and Formal A steps, the union appealed to Step B.

The union at Formal Step A contends the grievant called in sick for the dates of December 23, 2021 through January 2, 2022. Once the grievant returned to work he provided management with medical documentation and three PS Form 3971s requesting to use sick leave for his absences. However, management chose to charge the grievant with LWOP for his absences, which caused the grievant not to be paid holiday pay for the two holidays. Although management chose to charge the grievant

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The union requests management cease and desist inputting in carriers as LWOP or AWOL in lieu of the what the carriers request. The union requests management change the LWOP to sick leave as requested by the grievant. Finally, the union requests the grievant be compensated with 16 hours of holiday pay.

Management at Formal Step A contends the grievant called in back-to-back in conjunction with a long weekend and during two holidays for a far more than three days. Additionally, FMLA only protects the grievant from disciplinary action and does not over-ride the attendance policies. Just because the grievant has an approved FMLA case does not mean he is entitled to be paid for his absences without providing acceptable documentation. Although the grievant provided documentation for his absences, it was not acceptable documentation. Therefore, the grievant was charged with FMLA LOWP and there hasn't been any disciplinary action taken against him. The grievant has still not provided acceptable documentation for his absences.

The DRT reviewed the case file and determined management violated Section 513 of the ELM when they failed to provide any reason for denying the grievant's requests. The case file evidenced medical documentation stating the grievant could return to work on January 3, 2022, without restrictions. The case file also evidenced three PS Form 3971s without any indication if they were approved or denied. Therefore, the team agreed the grievant's LWOP will be changed to FMLA sick leave. In addition, the grievant will also be paid 16 hours for the holidays since the approval of the FMLA sick leave places him in a pay status before the holidays of December 25, 2021 and January 1, 2022. The Employee and Labor Relations Manual applied to the circumstances of this dispute:

513.342 Approval or Disapproval

The supervisor is responsible for approving or disapproving requests for sick leave by signing PS Form 3971, a copy of which is given to the employee. If a supervisor does not approve a request for leave as submitted, the Disapproved block on the PS Form 3971 is checked and the reason(s) given, in writing, in the space provided. When a request is disapproved, the granting of any alternate type of leave, if any, must be noted along with the reason for the disapproval. AWOL determinations must be similarly noted.

The Joint Contract Administration Manual states on page 11-1:

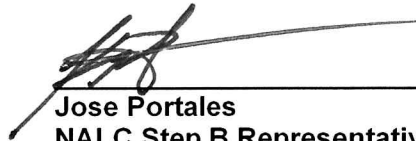
To be eligible for holiday pay, an employee must be in a pay status the last hour of the employee's scheduled workday prior to or the first hour of the employee's scheduled workday after the holiday.

An employee who has been granted any paid leave is considered to be "in a pay status."

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



Richard Ketchum
USPS Step B Representative



Jose Portales
NALC Step B Representative

cc:

LR Manager, Southern Area
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NALC Region 10 NBA
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Grievance File Contents

PS Form 8190 (2 pgs)	Union's Contention's (4 pgs)
Medical Documentation (6 pgs)	PS Form 3971s (2 pgs)
Virtual Timecard (4 pgs)	Sick Leave Confirmation Numbers (2 pgs)
Epayroll Pay Stub	PS Form 3972 (2 pgs)
Employee Everything Report (5 pgs)	Union's Notes
Grievant's Statement (3 pgs)	DOL Excerpts (2 pgs)
Virtual Timecard FAQ	Management's Contentions (2 pgs)
Request for Information	Request to Meet at Formal Step A