

RESOLVE



STEP B DECISION

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|---------------------------|----------------------------|-----------------------------|
| USPS Step B: | Decision: | RESOLVE |
| Richard Ketchum | USPS Number: | 4G19N-4G-C 2216 2803 |
| NALC Step B: | Grievant: | Class |
| Jim Ruetze | Branch Grievance Number: | 421-2739-21 |
| | Branch: | 421 |
| | Installation: | San Antonio |
| Dispute Resolution Team: | Delivery Unit: | Valley Hi |
| Rio Grande/Texas 3 | State: | TX |
| | Incident Date: | 12/20/2022 |
| | Informal Step A Initiated: | 02/01/2022 |
| | Formal Step A Meeting: | 02/15/2022 |
| | Received at Step B: | 03/23/2022 |
| | Step B Decision Date: | 05/26/2022 |
| | Issue Code: | 31.2000 |
| | NALC Subject Code: | 505006 |

ISSUE: Did management violate Articles 3, 17 and/or 31 of the National Agreement by failing to provide the union with requested information to include interviews in a timely manner? 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 without extenuating circumstances justifying the delay. In the future, management should respond to questions and to requests for documents, including requests for interviews, in a cooperative and timely manner. When a relevant request is made, management should provide for review and/or produce the requested documentation or employee for an interview 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*. The named grievants in this case, Katherine L. Ruffo-Alaniz and Timothy Caballero, are each compensated \$50.00 for the violation, in an effort to emphasize the parties' commitment to contract compliance. See the DRT Explanation below.

EXPLANATION: On December 17, 2021, Steward Katherine-Ruffo-Alaniz submitted a Request for Information (RFI) to management which included requests for documentation and to interview four employees in connection with a grievance for Letter Carrier Timothy Caballero. Management eventually provided the documentation, but as of February 15, 2022 had still not made the four employees available for Mrs. Ruffo-Alaniz to interview. 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 contended management violated Articles 17.3, 17.4 and 31 of the National Agreement when they failed to provide the union with the requested interviews within the 72 hours that multiple Step B decisions in San Antonio have established is a "reasonable amount of time."

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
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The union submitted the RFI on December 17, 2021, and management provided the documentation on December 21, 2021, but made no effort to provide the union access to the employees Mrs. Ruffo-Alaniz had requested to interview. The union provided management with a courtesy reminder that the information was due. As of February 15, 2022 no interviews have been provided and management as not provided any explanation as to why.

The initial RFI for *this* grievance was submitted on December 29, 2021 and as of February 15, 2022 no information was provided. The union requested management pay the grievants \$225.00 for failing to provide information in a timely manner.

Management contended the steward did not bargain in good faith at the Informal A meeting, noting that alternate steward Jason Pulido took this case even though Mrs. Ruffo is the steward of record. The steward at the Informal A was a different steward than the Formal A. Mrs. Ruffo took over the grievance at Formal Step A. Steward Jason Pulido was the initiating steward and should have remained the steward through the Formal Step A meeting. Therefore, the grievance is procedurally defective.

Management offered Mrs. Ruffo an extension on the initial grievance in order for her to do her due diligence and represent the employee. She refused the extension, once again showing her lack of working in good faith.

Management further contended when the RFI was submitted they cannot provide everything in 72 hours so that's why the Formal Step A representative could not agree to a cease and desist. There are too many variables as to what could impact the 72 hours process. Due to the many variables we cannot agree to ensuring 100% of the time that the interviews are going to get done in 72 hours.

Management maintained he understands they should be in agreement to do their best to get it done and if not notify the steward for an extension on this one item of the RFI. Management further argued the USPS should not be monetarily penalized. Additionally, management asserted the union was also afforded an opportunity to do what was right for the grievant by conducting the interviews even though management was late.

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: **(emphises added)**

- 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

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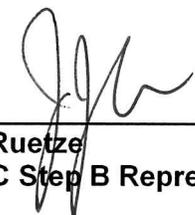
- payroll records
- documents in an employee's official personnel file
- internal USPS instructions and memorandums
- disciplinary records
- route inspection records
- patron complaints
- handbooks and manuals
- photographs
- reports and studies
- seniority lists
- overtime desired and work assignment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

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 monetary remedy is expected to convey to the parties the importance of complying with contractual obligations.



Richard Ketchum
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:
LR Manager, Southern Area
NALC Region 10 NBA
Texas 3 HR Manager
Texas 3 LR Manager
USPS Formal A Arnold Peña

NALC Branch President
NALC Formal A: Katherine Ruffo-Alaniz
Texas 3 District Manager
Postmaster
DRT File

Grievance File Contents

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PS Form 8190
Management Contentions - 3 pgs
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Requests for Information - 2 pgs
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Prior Step B Decisions re: Info Requests - 97 pgs
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M-00890 - 2 pgs
JCAM Excerpts - 16 pgs
Requests for Steward Time - 3 pgs
Request for Formal Step A Meeting
Request for Informal Step A Meeting



GATS

Grievance/Appeal

-Grievance Sub Menu-

-My GATS-

Payout Request History for Grievance

[HELP](#)

22162803

| | |
|---|---|
| <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 | \$50.00 | RUFFO | KATHERINE | 2405 | PP5 FY2022 | VY5GH0 | 05/26/2022 | Details | Delete | Edit |
| New | | 1 | \$50.00 | CABALLERO | TIMOTHY | 7596 | PP5 FY2022 | VY5GH0 | 05/26/2022 | Details | Delete | Edit |
| Total New: \$100.00 | | | | | | | | | | | | |
| 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 | | | | | | | | | | | | |