

RESOLVE



STEP B DECISION

USPS Step B: Richard Ketchum NALC Step B: Jim Ruetze	Decision: USPS Number: Grievant: Branch Grievance Number: Branch: Installation: Delivery Unit: State: Incident Date: Informal Step A Initiated: Formal Step A Meeting: Received at Step B: Step B Decision Date: Issue Code: NALC Subject Code:	RESOLVE 4G19N-4G-C 2217 5648 Class 421-329-21 421 San Antonio Heritage TX 02/08/2022 03/24/2022 04/01/2022 04/11/2022 06/03/2022 31.2000 505006
Dispute Resolution Team: Rio Grande/Texas 3		

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 information, 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*. See the DRT Explanation below.

EXPLANATION: On January 5, 2022, 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 Sarah Middleton. Following a second request on January 31, management eventually provided the documentation and some interviews, but as of the February 8, 2022 Formal Step A meeting had still not made letter carrier Molina 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."

The union submitted the first RFI on January 5, 2022, and management provided some documentation on January 12, but interviews were not conducted until after the union submitted a second request on January 31. As of February 8, 2022 the union had not interviewed the trainer, Carrier Molina.

Management contended the steward was given ample time and opportunities to conduct interviews, but she fails to manage her time properly, so if she missed an interview it was her own fault. With respect to the multiple extensions needed to accommodate the steward's time management problems, the case in question was a removal and should have been given priority treatment. When the steward arrived at Heritage on February 4 to conduct the interviews, she chose to interview the supervisors first for several hours. This made no sense. The supervisors were going to be there all day. The steward should have started with the carriers, since they were only going to be in the office for a short time in the morning.

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
- 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.



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 Yvonne Lopez

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

Grievance File Contents

PS Form 8190 - 3 pgs
Union's Additions & Corrections - 32 pgs
Response to Additions & Corrections - 5 pgs
Requests for Information - 5 pgs
Request for Informal Step A Meeting
Informal A Resolution Form
Time Limit Extension
Requests for Steward Time - 3 pgs
Seniority Report
Emails – 14 pgs
Supervisor Gildea Statements - 2 pgs
Grievant's Statement - 3 pgs
Character Statements - 3 pgs
JCAM Excerpts – 10 pgs

M-00790
Employee Everything Report - 17 pgs
OWCP Denial - 4 pgs
NLRB Charge - 2 pgs
USPS Formal Step A Notes - 13 pgs
Management Contentions - 17 pgs
Response Email to RFI
Request for Information
Schedule
Union Interview Notes - 15 pgs
Request for Formal Step A Meeting
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Request for Information/Time/Meeting