



RESOLVE



STEP B DECISION

Step B Team:	Decision:	<u>RESOLVE</u>
USPS:	USPS Number:	4G19N-4G-C 2220 1715
Richard Ketchum	Grievant:	Class Action
NALC:	Branch Grievance Number:	421
Jose Portales	Branch:	421-0459-22
	Installation:	San Antonio
Dispute Resolution Team	Delivery Unit:	Highland Hills
Rio Grande	State:	TX
District:	Incident Date:	03/12/2022-03/18/2022
Texas 3	Informal Step A Meeting:	03/31/2022
	Formal Step A Meeting:	04/15/2022
	Received at Step B:	04/10/2022
	Step B Decision Date:	06/16/2022
	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 into overtime off their routes during the week of March 12-18, 2022? 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. Non-ODL 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.

Carrier	EIN	100% Hrs	Guarantee	OT Hrs	POT Hrs	REMEDY
Zaragoza, B.	04376774	8.16				\$240.72
Jimenez JR., R.	04432004	7.37	0.67			\$247.06
Divin, N. S.	03505149	8.51	1.25			\$306.36
Ruiz, J. R.	04623290	9.23				\$272.29
Raganot, E. B.	04070012			0.96	0.96	\$99.12
Herndon, M. W.	04393372			0.37	2.24	\$148.53
Ferdin, R.	04406989			0.65	3.12	\$212.84
Erhiaganoma, J. E.	04555416			1.35	4.00	\$295.74
Orona, J. J.	04540558			0.50	4.74	\$301.79

EXPLANATION: This grievance concerns the assignment of overtime among full-time letter carriers at Highland Hill Station in San Antonio, Texas during the week of March 12-18, 2022. 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 rate, and ODL carriers were available at the penalty overtime rate.

The union contended at Formal Step A management violated Article 8 of the National Agreement, 8.5.D and 8.5.G of the Joint Contract Administration Manual (JCAM) and M-00884 when they did not maximize the ODL and mandated non ODL/WA carriers to carry overtime on their own routes and carry auxiliary assistance on other routes during the week of March 12-18, 2022 prior to fully utilizing the ODL and City Carrier Assistants (CCAs).

The union requested all ODL and CCA carriers be awarded overtime and penalty overtime. The union requested an award of 100% at the straight rate of pay for the aggrieved non ODL and/or WA.

Management at Formal Step A contended they acted within the contract to maintain the efficiency of the operation. Management argued each alleged infractions and the reasons why they were not violations of the National Agreement.

The DRT reviewed the case file and determined there was a violation of Article 8.5 during the week of March 12-18, 2022 when the overtime among full-time carriers was not assigned in accordance with the provisions of Article 8.5. As prior Step B decisions have instructed, management is required to comply with Article 8.5 when assigning overtime to full-time letter carriers. The language below is from the National Agreement and the Joint Contract Administration Manual (JCAM) and is quoted here for convenient reference. 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.

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]*

The JCAM provides the following relevant language when the ODL does not provide sufficient qualified full-time regulars for required over-time on pages 8-16 and 8-17:

Mandatory Overtime. One purpose of the ODL is to excuse full-time carriers not wishing to work overtime from having to work overtime. Before requiring a non-ODL carrier to work overtime on a non-scheduled day or off his/her own assignment on a regularly scheduled day, management must seek to use a carrier from the ODL, even if the ODL carrier would be working penalty overtime. However, if the ODL does not provide sufficient qualified full-time regulars for required overtime, Article 8.5.D permits management to move off the list and require non-ODL carriers to work overtime on a rotating basis starting with the junior employee. This rotation begins with the junior employee at the beginning of each calendar quarter. Absent an LMOU provision to the contrary, employees who are absent on a regularly scheduled day (e.g. sick leave or annual leave) when it is necessary to use non-ODL employees on overtime will be passed over in the rotation until the next time their name comes up in the regular rotation.

For Work Assignment carriers, the following JCAM language from page 8-21 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].

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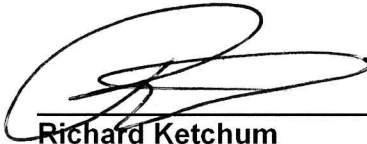
The DRT also agreed the grievants that were mandated to work on their scheduled day off were guaranteed eight hours of work or pay in lieu thereof. The JCAM states the following concerning work hour guarantees:

8.8.B. When a full-time regular employee is called in on the employee's non-scheduled day, the employee will be guaranteed eight hours work or pay in lieu thereof.

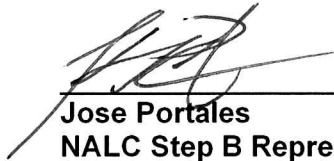
Pay Guarantee For Full-Time Employee on Non-Scheduled Day. A full-time regular or full-time flexible employee called in on a nonscheduled day is guaranteed 8 hours of work (or pay in lieu thereof). This guarantee also applies on a holiday or designated holiday.

Waiving guarantees. The Step 4 settlement H4N-2D-C 40885, November 14, 1988 (M-00879) provides that "Management may not solicit employees to work less than their call-in guarantee, **nor may employees be scheduled to work if they are not available to work the entire guarantee.** However, an employee may waive a guarantee in case of illness or personal emergency." [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
Rio Grande District HR Manager
Rio Grande District LR Manager
USPS Formal Step A: Mark Hinds

NALC Branch President
NALC Formal Step A: Raul Reyes Jr.
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190 (2 pgs)
Management's Contentions (7 pgs)
Union's Charts (4 pgs)
Request for Information
ODL
Employee Moves Report (10 pgs)

Union's Contentions (4 pgs)
Weekly Schedule (2 pgs)
Overtime Alert Report
Request to Meet at Formal Step A
Time Limit Extension
Hours Analysis Report (6 pgs)

Payout Request History for Grievance

[HELP](#)

22201715

<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		2	\$99.12	RAGANOT	EDWARD	0482	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$148.53	HERNDON	MICHAEL	2341	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$212.84	FERDIN	REY	7189	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$240.72	ZARAGOZA	BRANDON	2274	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$247.06	JIMENEZ	RICHARD	8213	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$272.29	RUIZ	FRANCISCO	4713	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$295.74	ERHIAGANOMA	JOSEPH	5190	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$301.79	ORONA	JOHN	4542	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
New		2	\$306.36	DIVIN	NATHAN	4782	PP7 FY2022	VY5GH0	06/17/2022	Details	Delete	Edit
Total New: \$2,124.45												
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												