



STEP B DECISION

Step B Team:
USPS: **Jennifer Lewis**
NALC: **Mark L. Malone**

District:
Rio Grande

Step A Reps:
USPS: **A. Alderete**
NALC: **T. Gergen**

Decision: **RESOLVE**
USPS Number: **G11N-4G-C 1322 8885**
Grievant: **Lynn Deal**
Branch Grievance Number: **421**
NALC Branch #: **421-463-13**
Installation: **San Antonio**
Delivery Unit: **Lockhill Station**
State: **Texas**
Incident date: **05/29/2013**
Date Informal Step A: **06/11/2013**
Formal Step A Meeting Date: **06/20/2013**
Date Received at Step B: **07/25/2013 (AUS 7/26/13)**
Step B Decision Date: **08/13/2013**
Issue Code: **65.2000**
NALC subject code: **600139**
Original Step B Received Date: **7/25/2013**
Date Sent to Assisting Team: **7/25/2013**

ISSUE: Did management violate Articles 3, 15, and 19 by failing to comply with Formal A agreement 421-353-12? Did management violate Article 19 of the National Agreement by instructing the grievant to clock into the incorrect MOD code operation? If so, what is the appropriate remedy?

DECISION: The dispute resolution team mutually agreed to resolve this dispute. There was a violation of Article 19 via the Handbook M-32 when the grievant was instructed to use an inappropriate operations code and/or when management failed to correct the inaccurate association. Management is reminded of their obligations to assure all work is accurately recorded by use of the correct MODS operation code and LDC (labor distribution code). As agreed previously at Formal Step A, management will stop instructing carriers to move to improper MODS code operations.

EXPLANATION:

The union contends that on May 29, 2013, the station manager instructed the grievant to associate with operation 782, training, while she was fueling a vehicle which had been loaned from another station. By instructing the carrier to do this management violated Article 19 via the Handbooks M-39, M-32 and F-21. The instruction also violated Formal Step A and Step B decisions. The union contends this is an improper instruction as that fueling vehicles is a regular recurring street function. This issue has been resolved in Lockhill Station through three separate grievances; management has agreed to 'cease and desist'. Two Step B decisions for the San Antonio Installation have also instructed management on the obligation to use to correct MODS code for the work being done. As remedy the union requests the grievant be compensated \$250.00 for management continued refusal to comply with agreements and settlements.

Management contends they did not violate the national or local agreements. Management does not recall telling Mrs. Deal to move to a training operation of 7820 on the date in question. During this time frame several of the vehicles were being serviced, the loaner vehicles did not have gas cards. Many carriers were asking me for the temporary gas card to fuel the loaner vehicles. Management did ask other carriers who were waiting for the gas card to move to another operation such as 3540 and 7430. The manager does not recall ever saying or telling her to move to 7820; furthermore why would the carrier even ask. Fueling vehicles is a street function and they should remain on operation 7210. Maybe the carrier heard wrong; but again why would a carrier with 25 years ask when she knows the proper operation. Management did not violate the Formal A agreement in 421-979-12; management did not change the carriers' clock rings. Grievance 421-353-12 is about improper operations, again she made her own clockrings and they were not changed. If she knew that she was going to get gas, why even ask me or anyone else "What operation do I move to?" Management did not recall making this statement; the union wanted \$100.00 which is punitive in nature. The union bears the burden of proof, a statement is not proof nor does it validate that I made such a statement therefore this grievance is denied.

Step B discussion

The case file does show that this issue has been raised and resolved in this station on several occasions. In addition to the resolutions mutually agreed to in Lockhill Station, the case file contains two Step B decisions which found that management's instructions regarding the use of operation numbers and labor distribution codes were contrary to Article 19 of the National Agreement.

Article 15 provides that, in most circumstances, Formal Step A resolutions are not citable except in cases of non-compliance. Article 15 also provides that Step B decisions are citable and precedence setting for the installation they were written for. The Step B decisions contained in this case file establish precedence for all stations and branches within the San Antonio installation. In all of these cases management has been reminded of their obligation to assure employees are given proper instruction in the use of MODS operation codes.

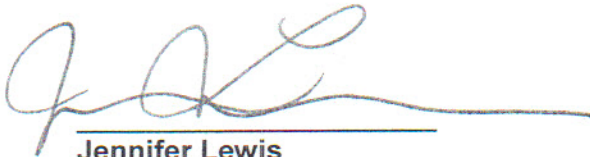
The grievant moved to the street at 09.62 for 0.08 hours prior to moving to operation 7820 for 0.23 hours. The employee then clocked back into office time at 09.93 for 0.26 hours before clocking back out to the street. Normal circumstances do not have the carrier returning to the station after fueling their vehicle. Management's position states that several carriers needed to use the same gas card and they were told to move to operation 3540 (waiting time) or to work on their edit books (7430) if they did not have office work to do while they waited on the gas card.

From the grievant's clockrings and management's statement it is reasonable to conclude that the employee was instructed to get gas and to bring the card back to the station for the other carrier(s). Management also questions why an employee with 25 years of service would ask what operation to use while getting gas. Similarly it should be questioned why an employee with 25 years would move to training (7820) on their own while fueling a vehicle.

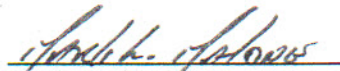
Given that it is not normal for the employee to leave the station before the mail was ready and to have to return to the station after getting fuel, it is possible the employee may have asked about how to account for the time, what operation to use. It is similarly possible that management took the lead and instructed the carrier what operation to use, as the manager states other carriers were given instructions when waiting for the card to be returned. While management does not recall telling the employee to use 7820 or what she was told, the employee seems fairly clear that was the instruction.

It is agreed that an instruction to use operation 782 for fueling vehicles is incorrect. However, operation 721 may not be the best suited to account for all of the time due to the circumstances presented in this case file. While a carrier would fuel their vehicle on operation 721 on the way to or from delivering their route, the employee would not normally have to leave the station twice or return to the station after getting gas and before delivering the mail. The case file does not contain any information on which other carrier(s) needed to use the gas card or their clockrings to show what operation(s) they used while waiting for the card or while getting gas and returning the card to the station.

In fashioning an appropriate remedy the team did consider the union's request to compensate the employee. This case file does not show or contend that the employee has been previously instructed to make improper operation associations or evidence that such previous instruction could adversely affect an analysis of her job assignment. Management in a previous Formal Step A agreement has agreed to 'cease and desist' instructing carriers to move to improper MODS code operations. Formal Step A resolutions are enforceable and citable in cases of non-compliance.



Jennifer Lewis
USPS Step B Representative



Mark L. Malone
NALC Step B Representative

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Management Formal Step A Designee
NALC Branch President
NALC Formal Step A Designee
DRT File

Grievance file content:

PS Form 8190 (4 pages)
Grievant's statement
Employee Everything Report
Course #31204-33 Field Finance Training:
Timekeeping (3 pages)
Handbook M-41 Page 1
Handbook M-39 Page 32
Handbook M-32 (8 pages)
Handbook F-21 page 348
MODS Operation Numbers (3 pages)
Statement from Conrad Gonzales

Step B Decision G06N-4G-D 0934 9472
(5 pages)
Step B Decision G06N-4G-C 0921 9458
(5 pages)
PS Form 8190 421-979-11(4 pages)
PS Form 8190 421-1021-11
PS form 8190 421-353-12
Request for Formal Step A meeting
Request for Documentation
Management Contentions (9 pages)