



RESOLVE



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 2039 4364
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421-1119-20
Jose Portales	Branch:	421
	Installation:	Boerne
Grieving District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	08/15/2020-08/21/2020
	Informal Step A Meeting:	08/29/2020
	Formal Step A Meeting:	09/10/2020
	Step B Received Date:	09/14/2020
	Step B Decision Date:	10/08/2020
	Issue Code:	08.5000
	NALC Subject Code:	120051

ISSUE:

Did management violate Article 8.5.D and 8.5.G of the National Agreement during the week of August 15-21, 2020, when they forced non-Overtime Desired List (ODL) and Work Assignment (WA) carriers to work overtime off their own assignment while ODL and City Carrier Assistants were available? If so, what is the appropriate remedy?

DECISION:

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. The case evidenced a violation of the National Agreement. The letter carriers in the table below are compensated in the amounts by their names. Carriers who were improperly assigned to work overtime were compensated an additional 50% 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.

EIN	EMPLOYEE	REMEDY	EIN	EMPLOYEE	REMEDY
04503604	Popiel, T.	\$73.01	03081749	Mathews, A.	\$60.18
03566158	Maldonado, A.	\$68.29	04400847	Turnbull, J.	\$67.41
03666218	Kennedy, R.	\$176.56	03606645	Garcia, H.	\$204.88
04194353	New, Y.	\$264.32			

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at the Main Post Office in Boerne, Texas during the week of August 15-21, 2020. During that week, management mandated a WA carriers to work overtime off of their assignments while ODL carriers were available at the regular overtime and penalty overtime rates.

RIO GRANDE DISPUTE RESOLUTION TEAM
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The union filed this grievance to challenge management's violation of Article 8. Unable to resolve the dispute through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

The union contends management violated Article 8.5.D and 8.5.G of the National Agreement when WA carriers were mandated to work on their non-scheduled day and off assignment while ODL carriers and CCAs were available at the overtime and penalty overtime rates.

The union requests management at all levels immediately cease and desist violating the provisions of Article 8 and pay 50% at the straight rate of pay to the non ODL and award the ODL carriers overtime and penalty overtime pay up to the maximum daily and weekly work-hour limit (12/60 hrs) for the missed overtime opportunities.

Management contends it does not dispute the fact in the use of non-ODL. Consequently, during the week in question two carriers called in with possible COVID 19 exposure, one of the two had been quarantined for 14 days due to high risk pregnancy. The second had not been feeling well called in and was tested for COVID 19 and required to wait for test results. Management contends these unforeseen circumstances were compounded by one additional unscheduled sick call and one carrier already on choice annual leave. As a result of these circumstances management felt it necessary to mandate non-ODL carriers off assignment to ensure mail was delivered efficiently, timely and safely. Management asserts all of which includes the goal of dispatching of all mail in a timely manner to meet the goal of dispatch of value. Management further contends the union's request for compensation is not a realistic expectation given the national emergency situation the company is going through specifically with the situation the Boerne Post Office faced.

The DRT reviewed the case file and determined the overtime among full-time carriers during the week of August 15-21, 2020 were not assigned in accordance with the provisions of Article 8.5. 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 Mittenenthal 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]*

For Work Assignment carriers and Carrier Technicians on work assignment, the following JCAM language from page 8-22 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 in Original]

On page 8-22, the JCAM clarifies that the “work assignment” for the purpose of assigning overtime to Carrier Technicians on the WA list consists of all five routes on the string:

Carrier Technicians on the Work Assignment List are considered available for overtime on any of the routes on their string. Subject to the penalty overtime exceptions discussed above, this provision should be applied as follows:

- *A Carrier Technician who has signed for Work Assignment overtime has both a right and an obligation to work any overtime that occurs on any of the five component routes on a regularly scheduled day.*
- *When overtime is required on the regularly scheduled day of the route of a carrier who is on the ODL and whose Carrier Technician is on the Work Assignment List, the Carrier Technician is entitled to work the overtime.*

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- *When overtime is required on the regularly scheduled day of the route of a carrier who is on the Work Assignment List and whose Carrier Technician is also on the Work Assignment List, the regular carrier on the route is entitled to work the overtime. [Emphasis Added]*

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



Rose Barner
USPS Step B Representative



Jose Portales
NALC Step B Representative

cc:

LR Manager, Southern Area
Rio Grande District HR Manager
Rio Grande District LR Manager
USPS Formal Step A Designee: J. Breedlove
NALC Formal Step A Designee: E. Ramirez

NALC Region 10 NBA
NALC Branch President
Manager, Rio Grande District
Postmaster
DRT File

Grievance File Contents

PS Form 8190
Formal Step A
Request for Information
Union Contentions (4 pgs)
Email/Remedy for Non-ODL (2gs)
Union Worksheets/Remedy (10 pgs)
Hours Analysis Report (5 pgs)

ODL List (2 pgs)
Employee Moves Report (2 pgs)
Carrier Work Week Schedule
Unit Office Work Week Schedule (6 pgs)
Management Contentions
Hours Analysis Report(5 pgs)

Payout Request History for Grievance

[HELP](#)

20394364

no data

<p><u>Not Processed By Payroll</u></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><u>Payroll Processed</u></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>
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New, Pending and Submitted Requests

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	SSN	Relevant PP	Requested By	Date Requested
New		1	\$60.18	MATHEWS	ARTHUR	3515	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$67.41	TURNBULL	JACKIE	0228	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$68.29	MALDONADO	ALFREDO	1777	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$73.01	POPIEL	TRAVIS	7918	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$176.56	KENNEDY	RENEE	7519	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$204.88	GARCIA	HUMBERTO	9662	PP18 FY2020	YSZ1BC	10/08/2020
New		1	\$264.32	NEW	YVONNE	4843	PP18 FY2020	YSZ1BC	10/08/2020
Total New: \$914.65									
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
No Data											
Total Paid: \$0.00											
Total Error: \$0.00											