



STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 2038 3303
Rose Barner	Grievant:	Class Action
NALC:	Branch Grievance Number:	421
Jose Portales	Branch:	421-1028-20
	Installation:	Eagle Pass
Grieving District:	Delivery Unit:	MPO
Rio Grande	State:	Texas
	Incident Date:	08/15/2020-08/21/2020
	Informal Step A Meeting:	08/28/2020
	Formal Step A Meeting:	09/03/2020
	Step B Received Date:	09/04/2020
	Step B Decision Date:	10/06/2020
	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 08/15/2020 through 08/21/2020, 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
04173095	Castro, L.	\$177.74	02194666	Perez, R.	\$85.55
02240917	Rodriguez, J.J.	\$128.18	02378909	Martinez, G.	\$137.47
04212366	Gomez, G.	\$137.47	04226476	Valdez, J.	\$59.00
04299439	Rodriguez, G.	\$141.89			

EXPLANATION:

This grievance concerns the assignment of overtime among full-time letter carriers at the Main Post Office in Eagle Pass, Texas during the week of 08/15/2020 through 08/21/2020. During the week cited, management mandated a WA carrier to work overtime on a non-scheduled day, and off assignment while ODL carrier were available at the regular overtime and penalty overtime rates.

RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284-9608
PHONE 210-368-1760, 210-368-5547, FAX 210-368-8525

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 a WA carrier was mandated to work on his non-scheduled day and off assignment on another day, while ODL 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. The union also requests the WA carrier be awarded an extra 50% of the straight time rate or otherwise made whole. The union finally requests that all ODL and CCA carriers be compensated at the appropriate overtime or penalty overtime rates for the missed overtime opportunity or otherwise made whole.

Management contends during the week of 08/15/2020 through 08/21/2020 that one ODL carrier was out due to having a heart attack and still has not returned to work. Management also contends two carriers were out on COVID-19 leave, one carrier retired at the end of July without giving any notice, and on one of the days in question another carrier was on Sick Leave. Management also contends all the ODL carriers worked as close to 1800 as possible, and splitting an additional route would cause the ODL carriers to work close to or even past 2000. This would be a safety hazard for the ODL carriers since they would be working overtime in the dark.

The DRT reviewed the case file and determined the overtime among full-time carriers during the week of 08/15/2020 through 08/21/2020 was 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 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

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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. Aguilera
NALC Formal Step A Designee: J. Valdez

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

Grievance File Contents

PS Form 8190
Request for Information
Management Contentions
Weekly Schedule
Overtime Alert Report (2 pgs)
Route/Carrier Daily Performance/Analysis
Report (18 pgs)

Request to Meet at Formal Step A
Union Contentions (7 pgs)
Article 8 Excerpt (2 pgs)
Overtime Desired List
Employee Moves Report (8 pgs)
Employee Everything Report (51 pgs)

Payout Request History for Grievance

20383303

[HELP](#)

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	\$59.00	VALDEZ	JORGE	5354	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$85.55	PEREZ	RICARDO	9806	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$128.18	RODRIGUEZ	JESUS	6718	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$137.47	MARTINEZ	GILBERTO	8909	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$137.47	GOMEZ	GONZALO	3164	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$141.89	RODRIGUEZ	GABRIEL	7901	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
New		1	\$177.74	CASTRO	LEONARDO	8565	PP18 FY2020	YSZ1BC	10/08/2020	<input type="checkbox"/>
Total New: \$867.30										
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											