



## STEP B DECISION

**CAPITAL METRO AREA  
NALC/USPS STEP B  
DISPUTE RESOLUTION TEAM**

**DISTRICTS**

*BALTIMORE*

*CAPITAL*

*NORTHERN VIRGINIA*

**USPS REPRESENTATIVE  
LEOPOLD A. POTSIADLO**

**NALC REPRESENTATIVE  
TONYA L. DETRICK**

**DECISION: RESOLVED**  
**USPS GATS #: K06N-4K-C 09215930**  
**GRIEVANT: Class Action**  
**BRANCH GRIEVANCE #: 54-09-RW13**  
**BRANCH: 3825**  
**INSTALLATION: 23-7887**  
**DELIVERY UNIT: Rockville/Potomac**  
**STATE: Maryland**  
**INCIDENT DATE: 2/4/2009**  
**INFORMAL STEP A INITIATED: 2/18/2009**  
**FORMAL STEP A MEETING: 4/17/2009**  
**RECEIVED AT STEP B: 4/27/2009**  
**STEP B DECISION DATE: 5/11/2009**  
**ISSUE CODE: 08.5300: 08.5700**

**ISSUE:**

Did Management violate Article 8.5.G of the National Agreement when Overtime Desired List (ODL) employees were not maximized up to twelve (12) hours prior to requiring Non-ODL Carriers to perform 'off assignment' overtime on February 4, 2009, and if so, what is the appropriate remedy?

**DECISION:**

The Dispute Resolution Team has RESOLVED this grievance. Based on the documentation contained in the case file, the Team has determined that Management did violate the National Agreement in this instance. The following Non-ODL and ODL employees shall be compensated the respective lump sum payments for this violation:

Hubbard	\$22.16	Bonnett	\$34.69	Solis	\$22.16	Sullivan	\$55.65
Griffin	\$36.14	Siegert	\$45.77	Guevara	\$40.95	Andrews	\$24.09
Conner	\$28.43	Moh	\$42.40	Kang	\$42.40	Schjolin	\$48.18
Henkel	\$44.33	Hughes	\$65.04	S. Kim	\$28.43	Doh	\$33.73
H. Lin	\$51.07	Harmen	\$33.73	Horn	\$36.14	Diep	\$34.69
Parsons	\$67.93	Schmidt	\$56.37	Liu	\$43.84	Donaggio	\$50.23
Leonard	\$24.09	Laryea	\$48.18	Knott	\$50.11	V. Walker	\$38.54
Tsai	\$38.54	Castellanos	\$55.89	Graham	\$50.83	Murray	\$67.93

The Step B Team processed these pay adjustments on the date of decision. No further action is required. No other remedy issued.

## **EXPLANATION:**

On Monday, February 4, 2009, sixteen (16) Non-ODL employees were required to work a cumulative 14.42 hours of overtime 'off of their assignments'.

**The Union contends** that Management continues to violate Article 8.5.G as supported by the multitude of previous Informal Step A, Formal Step A and Step B decisions in the case file, finding violations of this nature and granting monetary remedies. They state that Non-ODL Carriers were required to work 14.42 hours 'off' of their assignments, while the ODL employees were available both at the regular and penalty overtime rate. They stipulate that there is not a 'Window of Operations' (WOO) in Rockville, yet, notwithstanding this, the available ODL employees would have been able to perform the work assigned to the Non-ODL and still complete their deliveries by the alleged cut off time of 6:00pm. They add that the Part-Time Flexible (PTF) employees were available to provide additional assistance and there were hours available from the Transitional Employees (TE's) within their respective work hour limitations. They also provide numerous Arbitration decisions in support of their position that Management, while within their right to establish operational goals, must do so as to not violate other provisions of the National Agreement, such as Article 8.5.G in this case.

**Management contends** that a WOO has been established in the Capital District in order to improve timely delivery to customers, ensure the security of mails by reducing late delivery, maximize Carrier safety due to reduced visibility during the evening hours and also make sure that all collection mail would be returned to the office by last dispatch. Thus, they cite it is very important to have as much mail at the office as possible prior to 1800, in order to facilitate these goals. They state that the Potomac Office has tried to achieve 70% of Carriers returning to the office by 5:00pm. They provide Arbitration cases to support this determination. In order to achieve these goals, Non-ODL employees had to be simultaneously scheduled to perform overtime along with the ODL. They provide several Arbitration decisions in support of this determination.

After carefully reviewing all the facts and documentation in this case, the Team finds that Management did violate Article 8.5.G of the National Agreement in this instance. The Team determined from the included TACS Employee Everything Reports (EER) and the PS Form 3996's, that the work performed by the Non-ODL employees was 'off assignment'. The TACS reports also demonstrated that the ODL employees cited by the Union were available to perform this work. This is in conflict with the following provision in the JCAM:

### **8.5.G**

**Full-time employees not on the "Overtime Desired" list may be required to work overtime only if all available employees on the "Overtime Desired" list have worked up to twelve (12) hours in a day or sixty (60) hours in a service week.** Employees on the "Overtime Desired" list:

1. may be required to work up to twelve (12) hours in a day and sixty (60) hours in a service week *(subject to payment of penalty overtime pay set forth in Section 4.D for contravention of Section 5.F)*; and
2. Excluding December, shall be limited to no more than twelve (12) hours of work in a day and no more than sixty (60) hours of work in a service week.

Although local Management argued a need to adhere to their WOO, and asserted that all employees were maximized within this time frame, the TACS documentation contained in the case file shows that there were ODL Carriers available to work the off-assignment

overtime forced on the Non-ODL employees, both at the regular and penalty overtime rate, and within Management's own alleged WOO hours. The following Article 8 provision offers guidance:

**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. See Article 8.5.D.**

Lacking any actual documentation from Management successfully challenging the contentions of the Union and supporting their decision to assign the off-assignment overtime work to the Non-ODL employees, the Team is now compelled to find that the Union has evidenced a violation of Article 8 in this instance.

The case file provided that there is a documented history of violations of this nature whereby the Local parties resolved the issue granting the Non-ODL employees an additional compensation ranging from 50% to 200% for the violation. The Team finds that, in this instance, it is appropriate to maintain the 200% payment to the Non-ODL employees.

Management's liability, however, is limited to the number of hours worked 'off assignment' by the Non-ODL employees and payment to the ODL Carriers for the work they should have been assigned, but were not.

Payments to the ODL are not subject to escalating remedies and are always calculated at the appropriate overtime rate at which they would have performed the work and all payments are based on a median City Carrier hourly rate of pay of \$24.09.

**Case File Inventory:**

PS Form 8190-1 page

Issue Statement-1 page

Union Additions and Corrections-10 pages

Union Contentions-12 pages

Mutual Extension-2 pages

Union Case File-120 +/- pages

Management Contentions-12 pages


Management Case File-200 +/- pages

Arbitration Decisions, JCAM Pages & District Labor/Management Meeting Minutes-250+/- pages

Previous Informal Step A, Formal Step A and Step B Decisions-750+/- pages

TACS EER Clock Rings From 2003 through 2009-2,000 +/- pages

  
Tonya L. Detrick  
NALC Step B Representative

  
Leopold A. Potsiadlo  
USPS Step B Representative

USPS GATS #: K06N-4K-C 09215930

CC: Step A Parties  
District Labor Relations  
National Business Agent  
Capital Metro Labor Relations

**Payout Request History for Grievance  
09215930**

[HELP](#)

<p><b>Not Processed By Payroll</b></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><b>Payroll Processed</b></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><input checked="" type="checkbox"/> Show GATS Warnings Table</p>	
<p>&lt; Back</p>		<p>Show History</p>	

**New, Pending and Submitted Requests**

Status	GATS Code	App Seq	Request Amount	Last Name	First Name	Relevant PP	Requested By	Date Requested
New		2	\$22.16	SOLIS	CHRISTOPHER	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$22.16	HUBBARD	RODNEY	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$24.09	ANDREWS	JEFFERY	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$24.09	LEONARD	SAMMIE	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$28.43	KIM	SANG	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$28.43	CONNER	DAVID	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$33.73	DOH	HARRISON	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$33.73	HARMON	GERHARD	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$34.69	DIEP	CUONG	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$34.69	BONNETT	TIMOTHY	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$36.14	HORN	DOUGLAS	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$36.14	GRIFFIN	KEVIN	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$38.54	WALKER	VIVIAN	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$38.54	TSAI	TZU	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$40.95	GUEVARA	EDGARDO	PP4 FY2009	POTSIADLO	05/20/2009
New		2	\$42.40	KANG	JOANIE	PP4 FY2009	POTSIADLO	05/20/2009

New	2	\$42.40	MOH	TA WEI	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$43.84	LIU	CHIA JAN	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$44.33	HENKEL	DANIEL	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$45.77	SIEGERT	JOHN	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$48.18	SCHJOLIN	ERIC	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$48.18	LARYEA	FRANK	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$50.11	KNOTT	EDWARD	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$50.23	DONAGGIO	HENRY	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$50.83	GRAHAM	JERMAINE	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$51.07	LIN	HENG	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$55.65	SULLIVAN	RICHARD	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$55.89	CASTELLANOS	NELSY	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$56.37	SCHMIDT	JEAN	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$65.04	HUGHES	JULIA	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$67.93	PARSONS	BETH	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
New	2	\$67.93	MURRAY	JERMERIA	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009
Total New: \$1,362.66								
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											

**GATS Warnings**

Status	GATS Warning	Grievance Number	Request Amount	PP Paid	Last Name	First Name	Reference ID	Relevant PP	Requested By	Date Requested