



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 09215919
GRIEVANT: Class Action
BRANCH GRIEVANCE #: 54-09-RW29
BRANCH: 3825
INSTALLATION: 23-7887
DELIVERY UNIT: Rockville/Potomac
STATE: Maryland
INCIDENT DATE: 2/10/2009
INFORMAL STEP A INITIATED: 2/24/2009
FORMAL STEP A MEETING: 4/17/2009
RECEIVED AT STEP B: 4/29/2009
STEP B DECISION DATE: 5/13/2009
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 10, 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:

Hennigan	\$37.10	Moh	\$21.68	R. Thompson	\$50.59
H. Lee	\$34.21	Hughes	\$55.89	Kang	\$55.89
Conner	\$24.09	Tran	\$36.14	Kim	\$63.24
Henkel	\$24.09	Schmidt	\$27.94	Liu	\$30.96
Lewis	\$38.06	Bucy	\$24.09	Gatling	\$27.94
Parsons	\$16.38	Laryea	\$61.19	Graham	\$26.26
Tsai	\$28.91	Solis	\$37.10	Sullivan	\$39.03
Reid	\$24.57	Hseuh	\$38.06	Yu	\$18.43
Bonnett	\$33.73	L. Brooks	\$56.01	Andrews	\$16.26
Der	\$62.15			Ahmed	\$16.38

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

EXPLANATION:

On Tuesday, February 10, 2009, sixteen (16) Non-ODL employees were required to work a cumulative 11.42 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 11.42 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.

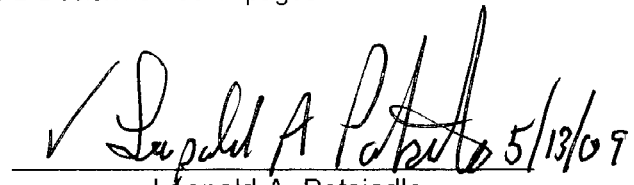
Management's liability, however, is limited to the number of hours worked 'off assignment' by the Non-ODL employees and payment to the ODL Carriers for the work they should have been assigned, but were not.

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


Tonya L. Detrick
NALC Step B Representative


Leopold A. Potsiadlo
USPS Step B Representative

USPS GATS #: K06N-4K-C 09215919

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

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**Payout Request History for Grievance
09215919**

[HELP](#)

<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><input checked="" type="checkbox"/> Show GATS Warnings Table</p>
<p>< 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	\$16.26	ANDREWS	JEFFERY	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$16.38	PARSONS	BETH	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$16.38	AHMED	ZAHEER	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$18.43	YU	THOMAS	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$21.68	MOH	TA WEI	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$24.09	HENKEL	DANIEL	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$24.09	CONNER	DAVID	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$24.09	BUCY	CHRISTOPHER	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$24.57	REID	MARTIN	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$26.26	GRAHAM	JERMAINE	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$27.94	SCHMIDT	JEAN	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$27.94	GATLING	TONY	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$28.91	TSAI	TZU	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$30.96	LIU	CHIA JAN	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$33.73	BONNETT	TIMOTHY	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New		2	\$34.21	LEE	HAE	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>

New	2	\$37.10	HENNIGAN	BRIAN	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$37.10	SOLIS	CHRISTOPHER	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$38.06	LEWIS	DON	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$38.06	HSUEH	JULIE	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$38.14	TRAN	HOA	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$39.03	SULLIVAN	RICHARD	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$50.59	THOMPSON	RAY	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$55.89	HUGHES	JULIA	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$55.89	KANG	JOANIE	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$56.01	BROOKS	LARRY	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$61.19	LARYEA	FRANK	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$62.15	DER	SHING	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
New	2	\$63.24	KIM	SANG	[REDACTED]	PP4 FY2009	POTSIADLO	05/20/2009	<input type="checkbox"/>
Total New:		\$1,028.37							
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
No Data										