

Reid 8-20-2016



STEP B DECISION

Step B Team:
Bryan/McPherson
San Diego District Cases

| | |
|--------------------------------|--------------------|
| Decision: | RESOLVED |
| USPS #: | K11N-4K-C 16524201 |
| Grievant: | Class |
| Branch Grievance#: | 01-16-LH-353 |
| Branch: | 3825 |
| Installation: | Frederick |
| Delivery Unit: | Frederick/21701 |
| State: | Maryland |
| Incident Date: | March 1, 2016 |
| Date of Informal Step A: | March 5, 2016 |
| Formal Step A Mtg: | June 21, 2016 |
| Received at Step B: | July 8, 2016 |
| Step B Decision: | August 10, 2016 |
| Issue Code: | 152000 |
| NALC Subject Code: | 505011 |
| Originally Received at Step B: | June 23, 2016 |
| Date Sent to Assisting Team: | July 6, 2016 |

District: Capital-Metro District

ISSUE: Did Management violate Article 15 of the National Agreement (NA), by not complying with the Formal A settlement Grievance # 01-16-LH34 dated and signed February 2, 2016? If so, what is the appropriate remedy?

DECISION: The Dispute Resolution Team has **RESOLVED** this grievance. A violation of Article 15 of the NA has been shown. Prior Arbitration awards show repeated violations. The following remedy will be applied:

- Management shall pay each of the following carriers a lump sum \$1,320.00 with standard deductions:

| Name: | EIN: | Name: | EIN: | Name: | EIN: |
|--------------------|------------|-------------------|------------|-----------------|------------|
| Steve Paquette | [REDACTED] | Cathy Wolfe | [REDACTED] | Jose Molina | [REDACTED] |
| Conrad Vongarrel | [REDACTED] | Earlene Le Compte | [REDACTED] | Lisa Snyder | [REDACTED] |
| Duane Oden | [REDACTED] | Robert Seremeth | [REDACTED] | Kenny Haines | [REDACTED] |
| Janice Delcostello | [REDACTED] | Mark Eyler | [REDACTED] | Terry Flippo | [REDACTED] |
| Thomas Gamble | [REDACTED] | Mike Morrissey | [REDACTED] | Gary Varner | [REDACTED] |
| Preston Long | [REDACTED] | Timmy Myers | [REDACTED] | Jim Barnes | [REDACTED] |
| Kenny Tyeryar | [REDACTED] | John Detrow | [REDACTED] | Anita Bromfield | [REDACTED] |
| Mitch Reissman | [REDACTED] | Chris Cook | [REDACTED] | Donnie Hamilton | [REDACTED] |
| David Smith | [REDACTED] | Robin Moore | [REDACTED] | Hung Nguyen | [REDACTED] |
| Laura Hennessey | [REDACTED] | Paul Nally | [REDACTED] | Carol Reyes | [REDACTED] |
| Ethel Jones | [REDACTED] | Ron Hardy | [REDACTED] | Earl Edwards | [REDACTED] |
| Raymond Thompson | [REDACTED] | Geoff Barnes | [REDACTED] | Catrina Gesell | [REDACTED] |
| Grayson Abrecht | [REDACTED] | Dale Winpigler | [REDACTED] | Boyce Landis | [REDACTED] |
| Ramont Scott | [REDACTED] | Donna Everhart | [REDACTED] | Warren Carryl | [REDACTED] |
| Jessica Patey | [REDACTED] | Karin Kosenski | [REDACTED] | | |

- Management shall cease and desist from future similar violations of the NA.

stage of the grievance/arbitration procedure are final binding, I want to reiterate our policy on this subject. (Emphasis added)

In a letter to Human Resources Managers (AREA), dated March 20, 1998, then Vice-President, Labor Relations John E. Potter wrote:

Arbitration awards and grievance settlements are final and binding. Compliance is not an option, but a requirement. One of the few acceptable reasons for non-compliance with an arbitration award is if the Postal Service is seeking to have the award vacated in a federal court, which is very rare. No manager or supervisor has the authority to override an arbitrator's award or a signed grievance settlement.


The file shows the request for payment was not submitted until April 26, 2016. The payments were not made within the twenty eight (28) days the local parties have agreed too. Therefore, the Team has agreed to the following remedy.

The Dispute Resolution Team has **RESOLVED** this grievance. A violation of Article 15 of the NA has been shown. Prior Arbitration awards show repeated violations. The following remedy will be applied:

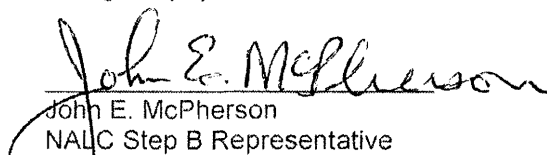
- Management shall pay each of the following carriers a lump sum \$1,320.00 with standard deductions:

| Name: | EIN: | Name: | EIN: | Name: | EIN: |
|--------------------|----------------|-------------------|----------------|-----------------|----------------|
| Steve Paquette | 011 [REDACTED] | Cathy Wolfe | 012 [REDACTED] | Jose Molina | 014 [REDACTED] |
| Conrad Vongarrel | 015 [REDACTED] | Earlene Le Compte | 011 [REDACTED] | Lisa Snyder | 010 [REDACTED] |
| Duane Oden | 013 [REDACTED] | Robert Seremeth | 010 [REDACTED] | Kenny Haines | 014 [REDACTED] |
| Janice Delcostello | 010 [REDACTED] | Mark Eyler | 012 [REDACTED] | Terry Flippo | 013 [REDACTED] |
| Thomas Gamble | 014 [REDACTED] | Mike Morrissey | 03 [REDACTED] | Gary Varner | 013 [REDACTED] |
| Preston Long | 01 [REDACTED] | Timmy Myers | 011 [REDACTED] | Jim Barnes | 014 [REDACTED] |
| Kenny Tyeryar | 014 [REDACTED] | John Detrow | 01 [REDACTED] | Anita Bromfield | 01 [REDACTED] |
| Mitch Reissman | 013 [REDACTED] | Chris Cook | 03 [REDACTED] | Donnie Hamilton | 01 [REDACTED] |
| David Smith | 01 [REDACTED] | Robin Moore | 01 [REDACTED] | Hung Nguyen | 03 [REDACTED] |
| Laura Hennessey | 010 [REDACTED] | Paul Nally | 012 [REDACTED] | Carol Reyes | 03 [REDACTED] |
| Ethel Jones | 01 [REDACTED] | Ron Hardy | 011 [REDACTED] | Earl Edwards | 01 [REDACTED] |
| Raymond Thompson | 011 [REDACTED] | Geoff Barnes | 01 [REDACTED] | Catrina Gesell | 01 [REDACTED] |
| Grayson Abrecht | 014 [REDACTED] | Dale Winpigler | 01 [REDACTED] | Boyce Landis | 01 [REDACTED] |
| Ramont Scott | 034 [REDACTED] | Donna Everhart | 03 [REDACTED] | Warren Carryl | 03 [REDACTED] |
| Jessica Patey | 043 [REDACTED] | Karin Kosenski | 03 [REDACTED] | | |

- Management shall cease and desist from future similar violations of the NA.
- Management shall pay NALC Branch 3825 a lump sum \$1,500.00 without deductions.
- The Capital Metro DRT shall be responsible for making the payments.


 Lin Bryan
 USPS Step B Representative

CC:
 USPS Step A Rep. (Ms. Spence)
 Area Labor Relations
 District Manager
 Postmaster
 Manager Labor Relations, Area


 John E. McPherson
 NALC Step B Representative

NALC Branch President
 National Business Agent
 Manager HR
 Manager LR
 NALC Step A Rep. (Ms. Hennessey)

Enclosure: index

- Management shall pay NALC Branch 3825 a lump sum \$1,500.00 without deductions.
- The Capital Metro DRT shall be responsible for making the payments.

EXPLANATION: According to the file, on February 2, 2016, USPS Representative David Coward and NALC Representative Laura Hennessey resolved local grievance #01-16-LH34. The settlement included payments to be made to both non-ODL and ODL carriers. The Adjustment was paid in pay period (PP) 9 of fiscal year (FY) 2016.

The Union contends management failed to comply with Formal A settlement, 01-16-LH34, dated February 2, 2016. Payment was made ninety four (94) days after the signing of the settlement. Prior grievance settlements have established twenty eight (28) days from the signing of the settlement as a reasonable time for the payments to have been received by the Grievants. Twenty eight (28) days would have been March 1, 2016. The carriers did not receive their payments until May 6, 2016. There have been multiple grievance resolves upholding twenty eight (28) days as reasonable and have awarded a monetary remedy for continued violations.

Management's position is it was never the intent to delay the processing of this pay adjustment. The settlement was signed on February 2, 2016 by USPS Rep Dave Coward and NALC Rep Laura Hennessey. Subsequently USPS Rep Dave Coward transferred from the Postal Service to another government agency. In response to his abrupt departure, Dave House was placed in the position as interim Manager of Labor Relations. Mr. House was challenged with reviewing all outstanding case files as well as addressing new cases. On April 22, 2016 at the urging of the union president an email requesting information on the status of the payment was sent. AN immediate response which included evidence the payment had been made.

JCAM page 15-1 states in relevant part:

Broad Grievance Clause. Article 15.1 sets forth a broad definition of a grievance. This means that most work related disputes may be pursued through the grievance/arbitration procedure. The language recognizes that most grievances will involve the National Agreement or a Local Memorandum of Understanding. Other types of disputes that may be handled within the grievance procedure may include:

- Alleged violations of postal handbooks or manuals (Article 19);
- Alleged violations of other enforceable agreements between NALC and the Postal Service, such as *Building Our Future by Working Together*, and the Joint Statement on Violence and Behavior in the Workplace. In his award in national case Q90N-4F-C 94024977, August 16, 1996 (C-15697), Arbitrator Snow found that the Joint Statement constitutes a contractually enforceable agreement between the parties and that the union has access to the grievance procedure to resolve disputes arising under it. Additionally, in his discussion of the case, Snow writes that arbitrators have the flexibility in formulating remedies to consider removing a supervisor from his or her "administrative duties," if a violation is found. (Note: The National parties disagree over the meaning of "administrative duties;")
- Disputes concerning the rights of ill or injured employees, such as claims concerning fitness-for-duty exams, first aid treatment, compliance with the provisions of the ELM Section 540 and other regulations concerning OWCP claims (Step 4, G90N-4G-C 95026885, January 28, 1997, M-01264). However, decisions of the Office of Workers' Compensation Programs (OWCP) are not grievable matters. OWCP has the exclusive authority to adjudicate compensation claims, and to determine the medical suitability of proposed limited duty assignments;
- Alleged violations of law (Article 5);
- Other complaints relating to wages, hours or conditions of employment.

On March 28, 2016 in settlement for grievance #01-16-LH-23 the local parties agreed:

...Moving forward the Union is putting Management on notice that they expect to have money in the hands of the union/employees within twenty eight (28) days on all pay adjustments.

In May of 2002, then USPS Vice-President Patrick Donahoe issued a memorandum (M-01517) that has become the definitive instruction on compliance with grievance settlements. It says:

Headquarters is currently responding to union concerns that some field offices are failing to comply with grievance settlements and arbitration award. While managers are aware that **settlements reached in any**

**INDEX
GRIEVANCE
USPS: # K11N-4K-C 16524201
Local Union: 01-16-LH-353**

The following is a list of enclosures for the grievances as received at Step B:

PS Form 8190 for Grievance # 01-16-LH-353 – 1 page
Management's Facts and Contentions – 2 pages
GATS Decision Letter – 1 page
Information Request – 1 page
Email – 1 page
Payout Request History for Adjustment – 3 pages
View Grievance/Adjustment Record – 1 page
Union's Table of Contents – 3 pages
Union's Facts and Contentions – 10 pages
Email – 1 page
Information Request – 1 page
2016 Calendar – 1 page
Request for Steward Time – 2 pages
Email – 1 page
Payout Request History for Adjustment – 3 pages
Copy of Online Check Stub – 1 page
Formal A Resolution 01-16-LH34 -- 2 pages
GATS Decision Letter – 1 page
Extension – 2 pages
JCAM – 2 pages
Potter Compliance Letter – 1 page
M-01517 – 1 page
Potter CBAs Letter – 1 page
Formal Step A Resolution – 1 page
Kenneth Lerch cover letter – 1 page
Prior Formal Step Resolution – 4 pages
Step B 09032310 – 2 pages
Kenneth Lerch cover letter – 1 page
Regional Arbitration – 100 pages
Kenneth Lerch cover letter – 1 page
Regional Arbitration – 218 pages
Kenneth Lerch cover letter – 1 page
Formal Step A Resolution – 24 pages

Total: 396 Pages

**Payout Request History for Grievance
16524201**

[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> |
| <input type="button" value=" < Back"/> | <input type="button" value=" Show History"/> |

New, Pending and Submitted Requests

| Status | GATS Code | App Seq | Request Amount | Last Name | First Name | SSN | Relevant PP | Requested By | Date Requested |
|--------|-----------|---------|----------------|-----------|------------|------|---------------|--------------|----------------|
| New | | 2 | \$1,320.00 | PAQUETTE | STEPHEN | 7215 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | SNYDER | LISA | 9554 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | LECOMPTE | EARLENE | 7340 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | BARNES | JAMES | 7292 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | BARNES | GEOFFREY | 7293 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | LONG | PRESTON | 4499 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | HAMILTON | DONALD | 3507 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | EYLER | MARK | 5739 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | HAINES | KENNITH | 6129 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | WINPIGLER | DALE | 3450 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | THOMPSON | RAYMOND | 6038 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | BROMFIELD | ANITA | 1338 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | ODEN | DUANE | 2123 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | MOORE | ROBIN | 1577 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | DETROW | JOHN | 5979 | PP5 FY2016 | TY00PB | 08/16/2016 |

| | | | | | | | | | |
|-----|--|---|------------|-----------------|-----------|------|---------------|--------|------------|
| New | | 2 | \$1,320.00 | TYERYAR | KENNETH | 7960 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | REISSMAN | MITCHELL | 2020 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | MOLINA | JOSE | 5785 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | MYERS | TIMOTHY | 4518 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | WOLFE | CATHERINE | 7666 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | EDWARDS | EARL | 3508 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | SMITH | DAVID | 9447 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | NALLY | PAUL | 1802 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | JONES | ETHEL | 0636 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | FLIPPO | TERRY | 9757 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | ABRECHT | GRAYSON | 3122 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | VARNER | GARY | 5030 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | GAMBLE | THOMAS | 4260 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | LANDIS | BOYCE | 9379 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | HENNESSEY | LAURA | 5600 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | SEREMETH | ROBERT | 7596 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | GESELL | CATRIONA | 1328 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | VONGARREL | CONRAD | 1968 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | DEL COSTELLO | JANICE | 2099 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | HARDY | RONNIE | 5821 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | SCOTT | RAMONT | 6428 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | NGUYEN | HUNG | 2768 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | MORRISSEY | IAN | 8073 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | EVERHART | DONNA | 4000 | | TY00PB | 08/16/2016 |

| | | | | | | | | | |
|-------------------------|--|---|------------|----------|-------------|------|---------------|--------|------------|
| | | | | | | | PP5 FY2016 | | |
| New | | 2 | \$1,320.00 | KOSENSKI | KARIN | 1344 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | CARRYL | WARREN | 6491 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | REYES | CAROL | 1632 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | COOK | CHRISTOPHER | 7408 | PP5 FY2016 | TY00PB | 08/16/2016 |
| New | | 2 | \$1,320.00 | PATEY | JESSICA | 4193 | PP5 FY2016 | TY00PB | 08/16/2016 |
| Total New: \$58,080.00 | | | | | | | | | |
| 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 | | | | | | | | | | | |