



**STEP B DECISION**

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

**DECISION: RESOLVED  
 USPS GATS #: K06N-4K-C 09207236  
 GRIEVANT: Class Action  
 BRANCH GRIEVANCE #: 54-09-RW15  
 BRANCH: 3825  
 INSTALLATION: 23-7887  
 DELIVERY UNIT: Rockville/Potomac  
 STATE: Maryland  
 INCIDENT DATE: 2/6/2009  
 INFORMAL STEP A INITIATED: 2/20/2009  
 FORMAL STEP A MEETING: 4/17/2009  
 RECEIVED AT STEP B: 4/23/2009  
 STEP B DECISION DATE: 5/6/2009  
 ISSUE CODE: 08.5300: 08.5700**

**DISTRICTS**

*BALTIMORE  
 CAPITAL  
 NORTHERN VIRGINIA*

**USPS REPRESENTATIVE  
 LEOPOLD A. POTSIADLO**

**NALC REPRESENTATIVE  
 TONYA L. DETRICK**

**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 6, 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 | \$17.83 | Siegert | \$37.10 | Harmon      | \$38.06 | Hsueh       | \$36.14 | Liu         | \$76.61 |
| Abdullah | \$27.46 | Manos   | \$52.03 | Schmidt     | \$25.54 | Guevara     | \$55.41 | Akinyosoye  | \$56.37 |
| Conner   | \$32.76 | Moh     | \$41.43 | Laryea      | \$23.61 | R. Thompson | \$13.37 | R. Sullivan | \$37.10 |
| D. Lewis | \$38.54 | Denell  | \$28.43 | Castellanos | \$27.94 | Kang        | \$23.61 | Yu          | \$25.54 |
| H. Lin   | \$55.41 | Hughes  | \$36.14 | Solis       | \$39.03 | Kim         | \$60.23 | Andrews     | \$41.43 |

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

**EXPLANATION:**

On Friday, February 6, 2009, fourteen (14) Non-ODL employees were required to work a cumulative 10.01 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 10.01 hours 'off' of their assignments, while the ODL employees were available both at the regular and penalty overtime rates. 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 not worked to nine (9) or ten (10) hours. 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 numerous ODL Carriers who were available to work the off-assignment overtime forced on the Non-ODL employees *within Management's own alleged WOO hours*. Additionally, there were six (6) ODL employees that did not work beyond 8.50 hours on this date. 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.

Management contends that the Union failed to identify a single Non-ODL employee that was worked in lieu of an ODL Carrier, however, the case file provides otherwise. Assignment of 'off assignment' overtime work to Non-ODL employees, while some ODL employees did not work beyond 15:50, is not supportive of either 'simultaneous scheduling' of overtime or maximization of workhours within an alleged WOO.

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 200% compensation for the violation. The Team is finds that, in this instance, it is appropriate to maintain this 200% additional payment to the Non-ODL employees.

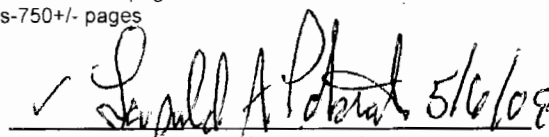
Management's liability, however, is limited to the number of hours worked 'off assignment' by the Non-ODL employees and payment to the ODL Carriers for the work they should have been assigned, but were not.

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
- NALC Bulletin-1 page
- Union Contentions-12 pages
- Mutual Extension-2 pages
- Formal Step A Resolution-2 pages
- Yellow Day Off Schedule & Data-3 pages
- ODL List-1 page
- Hours Analysis Report-13 pages
- MOU on WAO Moh-1 page
- MOU on Sharing of Information-2 pages
- Change in Carriers Reporting Time Posting and TACS Employee Moves Report-4 pages
- Requested Information-1 page
- Information Request-1 page
- TACS EER Reports & Corresponding PS Form 3996's-63 pages
- Daily Schedule-1 page
- Weekly Schedule-3 pages
- PS Form 3996's-14 pages
- PS Form 1571-2 pages
- Information Request-1 page
- Management Contentions-12 pages
- Management Case File-200 +/- pages
- Arbitration Decisions & District Labor/Management Meeting Minutes-250+/- pages
- Previous Informal Step A, Formal Step A and Step B Decisions-750+/- pages

  
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**USPS GATS #: K06N-4K-C 09207236**

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