

# Local Grievance # \_\_\_\_\_

## Issue Statement (Block 15 of PS Form 8190):

Did management violate Articles 3, 5, and 21 of the National Agreement along with ELM Section 540 via Article 19 of the National Agreement when they instructed the grievant of which type of claim to file, if so, what should the remedy be?

## Union Facts and Contentions (Block 17 of PS Form 8190):

### Facts:

1. Letter Carrier **[name]** suffered an on-the-job injury on **[date]** at approximately **[time, if traumatic]** when **[explain incident]**.
2. Section 541.2 of the ELM defines a traumatic injury as:

*Traumatic injury — a condition of the body caused by external force, including stress or strain. The injury:*

- (1) Must be identifiable as to time and place of occurrence and member or function of the body affected.*
- (2) Must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.*

3. Section 541.2 of the ELM defines an occupational disease or illness as:

*Occupational disease or illness — an illness or disease produced by one of the following:*

- (1) Systemic infections.*
- (2) Continued or repeated stress or strain.*
- (3) Exposure to toxins, poisons, fumes, etc.*
- (4) Other continued and repeated exposure to conditions of the work environment over a longer period of time than a single day or work shift.*

4. Letter Carrier **[name]** reported the injury to Supervisor **[name]** on **[date]** at approximately **[time]**. This is documented by the written statement from Letter Carrier **[name]** in the case file.

## Local Grievance # \_\_\_\_\_

5. Article 21.4 of the National Agreement states:

*Employees covered by this Agreement shall be covered by Subchapter I of Chapter 81 of Title 5, and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.*

6. Article 21 of the JCAM explains:

**Workers' Compensation.** *Letter carriers who sustain occupational injury or disease are entitled to workers' compensation benefits under the Federal Employees' Compensation Act (FECA), administered by the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP).*

*Sources of information concerning federal workers' compensation benefits are:*

- *ELM Section 540—USPS regulations governing workers' compensation;*
- *USPS Handbook EL-505, Injury Compensation (December 1995);*
- *Title 5 United States Code Section 8101 (5 U.S.C. 8101)—the Federal Employees' Compensation Act (FECA);*
- *Title 20 Code of Federal Regulations Section Chapter 1 (20 C.F.R. 1) —regulations of the Office of Workers' Compensation Programs;*

7. National Arbitrator Bernstein ruled in case number H1N-5G-C 14964:

*Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.*

# Local Grievance # \_\_\_\_\_

8. Article 3 Management's Rights states:

*The Employer shall have the exclusive right, subject to the provision of this Agreement and consistent with applicable laws and regulations.*

## Contentions:

1. Management violated Articles 3, 5, and 21 of the National Agreement, ELM Section 540 via Article 19 of the National Agreement, when they instructed Letter Carrier **[name]** to file a **[CA-1 or CA-2]**.

2. Management's obligations regarding claim filing are found in ELM 544.111 titled ***Immediate Supervisor Responsibility:***

### **544.111 General**

*When a notice of traumatic injury or occupational disease is filed, the immediate supervisor is responsible for doing the following:*

- a) *Immediately ensuring that appropriate medical care is provided.*
- b) *Providing the employee a Form CA-1 or a Form CA-2.*

3. Section 541 and 542 of the ELM clearly determines whose right it is to choose which claim form to file. The sections state in relevant part:

**541.2.b Claim** – *an assertion, in writing, of an individual's entitlement to benefits under FECA. This claim must be submitted on a form as required by 542. A claim may be filed for a traumatic injury, an occupational disease or illness, or death.*

**541.2.c Claimant** – *an individual whose claim for benefits and/or compensation has been filed in accordance with FECA and the provisions of 542.*

### **542.112 Time Limit**

*FECA requires written notice of a traumatic injury be given by the employee, or person acting on behalf of the employee, within 3 years of the injury.*

### **542.122 Time Limit**

*FECA specifies that notice be given by the employee, or person acting on behalf of the employee, within 3 years of the onset of the condition.*

## Local Grievance # \_\_\_\_\_

4. Supervisor **[name]** instructed Letter Carrier **[name]** to file claim Form **[CA-1 or CA-2]** in violation of the ELM 540 via Article 19. Based on the above language of Sections 541 and 542 of the ELM, a claim is an injured worker's **assertion** that an illness or injury occurred. That individual is known as the **claimant**. To be timely filed, that claim must be **filed by the employee** within 3 years.
5. The Union contends that it is an employee's obligation to file their assertion that an injury occurred using the correct form based on the definitions of CA-1 or CA-2. The decision of what type of claim to file rests solely with the individual claimant and not management.
6. Letter Carriers who are injured on-the-job are guaranteed certain rights and protections by the National Agreement and Federal Law. When these rights are violated, Letter Carriers are harmed and caused undue hardship. Without the proper forms being provided and/or properly processed for a work-related injury, employee's Worker's Compensation benefits could be delayed and/or denied for reasons that are out of the employee's control. In this case, Letter Carrier **[name]** claim was denied/delayed causing financial harm **[or explain any other undue hardship, if any]**.

### Remedy (Block 19 of PS Form 8190):

1. Management cease and desist violating Articles 3, 5, and 21 of the National Agreement and ELM Section 540 via Article 19.
2. Management at **[Station Name and Zip Code]** will take a training course on the proper procedures and management's responsibilities regarding on-the-job injuries.
3. Letter Carrier **[name]** be made whole for any and all lost wages and benefits that occurred as a result of management's actions.
4. Letter Carrier **[name]** be paid a lump sum of \$100.00 for undue hardship caused by management's actions and to ensure future compliance of the parties.
5. Management will make all payments associated with this case as soon as administratively possible, but no later than 30 days from the date of settlement and proof of payment will be provided to the Union.
6. Any and/or all remedies the Step B Team or Arbitrator deems appropriate.

# Local Grievance # \_\_\_\_\_



## National Association of Letter Carriers Request for Information

To: \_\_\_\_\_  
(Manager/Supervisor)

Date \_\_\_\_\_

\_\_\_\_\_  
(Station/Post Office)

Pursuant to Articles 17 and 31 of the National Agreement, I am requesting the following information to investigate a grievance concerning a violation of Articles 3, 5, 19, and 21:

1. Copies of any and all forms related to the on-the-job injury to Letter Carrier **[name]**.
2. TACS Employee Everything report for Letter Carrier **[name]** from **[dates(s)]**.

I am also requesting time to interview the following individuals:

1. **[Name]**
2. **[Name]**
3. **[Name]**

Your cooperation in this matter, will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

\_\_\_\_\_  
Request received by: \_\_\_\_\_

Shop Steward  
NALC

Date: \_\_\_\_\_

**Local Grievance # \_\_\_\_\_**



**National Association of Letter Carriers  
Request for Steward Time**

To: \_\_\_\_\_ Date \_\_\_\_\_  
(Manager/Supervisor)

\_\_\_\_\_  
(Station/Post Office)

Manager/Supervisor \_\_\_\_\_,

Pursuant to Article 17 of the National Agreement, I am requesting the following steward time to investigate a grievance. I anticipate needing approximately \_\_\_\_\_ (hours/minutes) of steward time, which needs to be scheduled no later than \_\_\_\_\_ in order to ensure the timelines established in Article 15 are met. In the event more steward time is needed, I will inform you as soon as possible.

Your cooperation in this matter will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

\_\_\_\_\_ Request received by: \_\_\_\_\_

Shop Steward  
NALC

Date: \_\_\_\_\_

**Local Grievance # \_\_\_\_\_**

**PRIVACY ACT AUTHORIZATION AND**

I authorize the NALC and/or its authorized representatives to disclose information received through the U.S. Department of Labor/Office of Workers' Compensation Programs deemed necessary to investigate and/or process grievances.

This authorization is effective on the date it is signed and is effective until revoked by me in writing. A copy of this authorization shall have the same force and effect as the signed original.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Privacy Act Statement: By signing this form you authorize the disclosure of your information regarding workers' compensation claims to the NALC and/or its representatives to investigate or to determine if a grievance exists. This form will be maintained by the NALC and will only be disclosed as part of a grievance should it be determined a violation of the National Agreement or FECA Regulations exists.