

VIOLATION OF ARTICLE 17, Section 4

A GRIEVANCE STARTER FOR IF/WHEN MANAGEMENT FAILS TO PROVIDE TIME ON THE CLOCK FOR PROCESSING GRIEVANCES REQUIRING THE UNION REPRESENTATIVE TO PROCESS GRIEVANCES OFF-THE-CLOCK

When management fails to grant requested time “on the clock” needed to investigate/process a grievance and you have to do the work “off the clock”, you should always file a separate grievance. In other words, you will need to file two grievances. The first grievance is the one you had to write “off the clock” to preserve your time limits. The second grievance will be for getting paid for the time you spent doing the work. Page 20 of the NALC Shop Steward’s Guide explains grieving the denial of steward time.

Here are two basic things you should know when using this grievance starter:

1. This kind of case should be filed as an individual grievance with the grievant being the union representative who completed the work off-the-clock.
2. The incident date is the date the grievant completed the work off-the-clock.

It is important to remember that it is a contract case and the burden of proof is on the union.

Here are some suggestions for evidence/documentation to include in your case file that will help prove a violation in this type of grievance:

1. **Document your request(s) for grievance handling time** - You should try and prove which manager received your request(s) for grievance handling time and when you made your request(s). The easiest way to prove both points is to use a standardized written request form such as the one included in this grievance starter, ask the manager to sign the request form as received, and keep a copy. There are other ways to document your request(s). For example, some branches use PS Forms 3996 to document requests for grievance handling time. If this is your situation, just request a copy of the PS Form 3996 after the supervisor has acted on it and include it in the case file for this grievance. If you don’t have a written request for grievance handling time, you should include a signed and dated statement documenting when you requested the grievance handling time and which manager/supervisor you

requested it from. You could also interview the manager/supervisor that you requested grievance handling time from and include a copy of the notes from the interview in your grievance file.

2. **Document the time you spent on grievance handling “off-the-clock”**
- You should include a signed and dated statement documenting when and how long you performed grievance handling work off-the-clock. While not necessary, it would be helpful to include a signed and dated statement from another individual that can verify the date and amount of time you spent performing grievance handling work off-the-clock.
3. **Try to document the grievance handling work you performed “off-the-clock”** – For instance, if you spent time off-the-clock writing a grievance up and preparing the case file, the best evidence for this case is to include the PS Form 8190, your write up, and a table of contents from the grievance you worked on in this grievance file.
4. **Document your workhours as a Letter Carrier on the day you spent time performing grievance handling work “off-the-clock”.** If you have to perform grievance handling duties off-the-clock on a workday, consider requesting your employee everything report (clock rings) for the day in question and include them in your case file. This can help determine the correct rate of pay for the remedy.
5. **Document any time spent on grievance handling on-the-clock.** If you spent any time working on other grievances or other duties on 613 (Steward time) on-the-clock during the time period you are grieving, document that time with clock rings and a statement of what you worked on. This will rebut any management argument that you were given time on-the-clock.

You will be arguing that management has failed to abide by Article 17 of the National Agreement which requires them to provide grievance handling time on-the-clock. In addition, you will also be contending management’s unreasonable denial of the requested time caused you to complete the work off-the-clock in order to maintain the contractually established timelines for filing a grievance as set forth in Article 15 of the National Agreement.

Local Grievance # _____

Issue Statement (Block 15 on PS Form 8190):

Did management violate Article 17, Section 4 of the National Agreement at the **[Station/Post Office]** by failing to provide paid grievance handling time, and if so, what should the remedy be?

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

Facts:

1. Union representative **[name]** submitted a request(s) for paid grievance handling time to investigate and process local grievance **[grievance #(s)]** to manager/supervisor **[name]** on **[date(s)]**. This fact is documented in the case file with _____.
2. Management at the **[Station/Post Office]** failed to provide paid grievance handling time during working hours.
3. Union representative **[name]** spent **[# hour(s)/min(s)]** processing local grievance(s) **[grievance #(s)]** off the clock on **[date(s)]**. This fact is documented in the case file with _____.
4. Union representative **[name]** spent **[# hour(s)/min(s)]** processing different local grievance(s) **[grievance #(s)]** and/or performing other steward duties **[name them]** on-the-clock. This fact is documented in the case file with _____.
5. Article 17, Section 3 of the National Agreement states in relevant part:

Section 3. Rights of Stewards

When it is necessary for a steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and such request shall not be unreasonably denied.

6. Article 17 of the JCAM explains:

Steward Rights. Article 17.3 & 17.4 establish several steward rights:

- *The right to investigate and adjust grievances and problems that may become grievances;*
- *The right to paid time to conduct those activities;*
- *The right to obtain management information;*
- *Superseniority concerning being involuntarily transferred;*
- *An employee's right to steward representation during an Inspection Service interrogation.*

7. Article 17, Section 4 of the National Agreement states in relevant part:

Section 4. Payment of Stewards

The Employer will authorize payment only under the following conditions:

Grievances—Informal and Formal Step A: The aggrieved and one Union steward (only as permitted under the formula in Section 2.a) for time actually spent in grievance handling, including investigation and meetings with the Employer. The Employer will also compensate a steward for the time reasonably necessary to write a grievance.

8. Article 17 of the JCAM explains:

A steward has the right to conduct all such activities on the clock (see Below)

Right to Steward Time on the Clock. *Although a steward must ask for supervisory permission to leave his or her work area or enter another one to pursue a grievance or potential grievance, management cannot “unreasonably deny” requests for paid grievance-handling time.*

Contentions:

1. Management violated Article 17, Sections 3 & 4 of the National Agreement by failing to provide paid grievance handling time.
2. Management unreasonably denied the requested grievance handling time requiring the grievant to complete the processing of the grievance(s) off the clock to maintain the contractually established timelines for filing a grievance as set forth in Article 15 of the National Agreement.
3. Any argument that management may make claiming this grievance handling time was provided is simply not true. All grievance handling time on-the-clock is documented within the case file as time spent working on other grievances/steward duties.
4. Article 17 of the JCAM explains:

The appropriate remedy in a case where management has unreasonably denied a steward time on the clock is an order or agreement to cease and desist, plus payment to the steward for the time spent processing the grievance off-the-clock which should have been paid time

Remedy (Block 19 on PS Form 8190):

1. Management cease and desist failing to provide paid grievance handling time in violation of Article 17 of the National Agreement.
2. That management pay union representative **[name]**, **[hours/mins]** at the appropriate rate of pay or a lump sum payment of **[amount]** for the time spent processing local grievance(s) **[grievance #(s)]** off-the-clock.
3. That all payments associated with this case be made as soon as administratively possible, but no later than 30 days from the date of settlement.
4. That proof of payment be provided to **[NALC Official]** upon payment, and/or any other remedy the Step B team or an arbitrator deems appropriate.

Add the following issue statement, facts, contentions, and remedy request if we can prove the violation is repetitive:

Issue Statement:

Did management violate Article 15, Section 3.A of the National Agreement along with policy letter M-01517 by failing to comply with the prior Step B decisions or local grievance settlements in the case file, and if so, what should the remedy be?

Facts:

1. Article 15, Section 3.A of the National Agreement states in relevant part:

The parties expect that good faith observance, by their respective representatives, of the principles and procedures set forth above will result in resolution of substantially all grievances initiated hereunder at the lowest possible step and recognize their obligation to achieve that end.

2. M-01517 states in part:

Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator's award or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented.

3. Included in the case file are **[Arbitration Awards/Step B decisions/local grievance settlements, etc.]** in which management was instructed/agreed to cease and desist failing to provide paid grievance handling time at the **[Station/Post Office]**.

Contentions:

1. Management violated Article 15, Section 3.A of the National Agreement and M-01517 by failing to abide by the previous Step B decisions/local grievance settlements in the case file. When management violates contractual provisions despite being instructed/agreeing to cease and desist these violations, they have failed to bargain in good faith.

2. The Union contends that Management has had prior cease and desist directives to stop failing to provide paid grievance handling time at the **[Station/Post Office]**.
3. The Union also contends that Management's actions are continuous, egregious and deliberate. The Union has included past decisions/settlements in the case file to support their claim.

Remedy:

1. That management cease and desist violating Article 15 of the National Agreement.
2. That Letter Carrier(s) **[Name], [Name], and [Name]** each be paid a lump sum of \$100.00 to serve as an incentive for future compliance.



National Association of Letter Carriers Request for Information

To: _____
(Manager/Supervisor)

Date _____

(Station/Post Office)

Manager/Supervisor _____,

Pursuant to Articles 17 and 31 of the National Agreement, I am requesting the following information to investigate a grievance concerning a violation of Article 17.

1. TACS Employee Everything Report for **[Name]** from **[Date]**.

I am also requesting 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,

Shop Steward
NALC

Request received by: _____

Date: _____



National Association of Letter Carriers Request for Steward Time

To: _____

(Manager/Supervisor)

Date _____

(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,

Shop Steward
NALC

Request received by: _____

Date: _____