

Local Grievance # _____

Issue Statement (Block 15 of PS Form 8190):

Did management violate Articles 3, 5 of the National Agreement and EL-505 via Article 19 (***include Articles 7, 8, and/or 11 if guaranteed time is not properly paid***) of the National Agreement by failing to properly pay the grievant on the day of injury, 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]** when **[explain incident]**.
2. Letter Carrier **[name]** reported the injury to Supervisor **[name]** on **[date]** at approximately **[time]**. This is documented by the written statement from the grievant.
3. Management failed to properly pay Letter Carrier **[name]** on the date of injury. This is documented by the TACS Employee Everything Report and/or a copy of the grievant's paystub and/or copy of PS Form 3997 Unit Daily Record.
4. Section 13-4 of the EL-505 states:

On the DOI, keep the injured employee in a work status or grant administrative leave for any fraction of a day or shift lost, so that the employee receives pay for the entire shift that he or she is scheduled to work. Do not charge the DOI to the 45-day COP period, except when the injury occurs before the beginning of the workday or shift.

- *If an employee receives first-aid treatment and returns to work the same day, excuse his or her time spent for first-aid treatment to administrative leave. Do not require the employee to clock out when leaving the place of duty for first-aid examination or treatment.*
- *If an employee, including a casual or temporary employee, is directed by management to an on-site or off-site medical unit the same day as the accident, record the time spent waiting for and receiving medical attention as work time, up to all time that the employee would have been directed to work beyond the regularly scheduled shift.*

◇ An employee, whose treatment extends beyond his or her schedule end of shift is not to be credited with that time.

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- *If an employee, except a casual or temporary employee, is excused from work during the scheduled shift, charge the remaining portion of the shift to Other Paid Leave (Administrative), rather than COP.*
- *If an employee is excused from work on a nonscheduled day for which the guarantee period applies, change the remaining portion of the employee's workday to Guaranteed Time and Guaranteed Overtime, as applicable.*

Guaranteed Time

Guaranteed Time, under the guarantee provisions of collective bargaining agreements, is time paid for but not worked because the employee has been released by the supervisor and has clocked out before the end of a guaranteed period.

Example: *Most bargaining unit full-time regular employees are guaranteed 8 hours of work or pay if called in on their nonscheduled day to work. If such an employee works 6 hours and is then released, and told by his or her supervisor to clock out because of lack of work, the remaining 2 hours of the employee's 8-hour guarantee are recorded as guaranteed time.*

5. Article 5 Prohibition of Unilateral Action states:

Prohibition on Unilateral Changes. *Article 5 prohibits management taking any unilateral action inconsistent with the terms of the existing agreement or with its obligations under law. Section 8(d) of the National Labor Relations Act prohibits an employer from making unilateral changes in wages, hours or working conditions during the term of a collective bargaining agreement.*

6. 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

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the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

7. Article 3 Management's Rights state:

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 Article 3, 5 and EL-505 via Article 19 of the National Agreement by failing to properly process the grievant's pay on the date of injury.

2. EL-505, Section 13-4 states in relevant part:

On the DOI, keep the injured employee in a work status or grant administrative leave for any fraction of the day or shift lost, so that the employee receives pay for the entire shift that he or she is scheduled to work.

3. Management improperly charged **[number of hours]** to Letter Carrier **[name]**'s annual and/or sick leave on the date of injury in violation of the above EL-505 provision. This is evidenced by the employee's Time and Attendance (TACS) report in the case file.

Remedy Requested (Block 19 of PS Form 8190):

1. Management cease and desist violating Article 3, 5 and EL-505 via Article 19 of the National Agreement.
2. Letter Carrier **[name]** be made whole for any and all lost wages and benefits that occurred as a result of management's actions
3. All payments and/or adjustments associated with this case be made 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.
4. Any and/or all remedies the Step B Team or Arbitrator deems appropriate.