

Local Grievance # _____

Issue Statement (block 15 of PS Form 8190):

Did management violate Articles 5 and 21 of the National Agreement along with Section 540 of the ELM and Handbook EL-505, *Injury Compensation* via Article 19 of the National Agreement and 20 C.F.R. 1 by failing to provide and/or properly process Form CA-2, *Notice of Occupational Disease and Claim for Compensation*, and if so, what should the remedy be?

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

Facts:

1. Letter Carrier **[name]** suffers from an occupational disease or illness.
2. 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.*

3. Letter Carrier **[name]** reported the occupational disease or illness to Supervisor **[name]** on **[date]** at approximately **[time]**. This is documented by the written statement from Letter Carrier **[name]** in the case file.
4. Management failed to provide and/or properly process Form CA-2. This fact is documented by the written statement from Letter Carrier **[name]** in the case file.
5. Article 21, Section 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.

Contentions:

1. Management violated Articles 5 and 21 of the National Agreement along with Section 540 of the ELM and Handbook EL-505 via Article 19 of the National Agreement and 20 C.F.R 1 by failing to provide and/or properly process Form CA-2.
2. Section 544.11 of the ELM addresses the immediate supervisor's responsibilities when an employee is injured on-the-job:

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.
- c. Completing the receipt attached to Form CA-1 or CA-2 and giving the receipt to the employee or the employee's representative.
- d. Investigating all reported job-related injuries and/or illnesses.
- e. Immediately notifying the control office or control point of an injury, disease, or illness.
- f. Prompt completion and forwarding of Form CA-1 or CA-2 to the control office or control point on the same day it is received from the employee.

Letter Carrier [name] notified Supervisor [name] of his/her occupational disease or illness. At that point, the supervisor was required to, among other things, provide Letter Carrier [name] with Form CA-2. This did not happen in this case. Moreover, because Supervisor [name] did not provide the CA-2, management did not comply with the other requirements of the language quoted above. Specifically, Supervisor [name] did not provide the receipt from Form CA-2 to the grievant, nor was the completed Form CA-2 forwarded to the control office or control point in a timely manner.

3. Management's excuse that they did not have Form CA-2 on hand is unacceptable. Section 541.3 of the ELM reads in part:

Each installation head must maintain an adequate supply of the following basic forms, which are needed for recording and reporting injuries:

Form CA-2, among others, is included in listing in Section 541.3 of the ELM.

4. Sections 3.4 and 3.5 of Handbook EL-505 set out the supervisor's responsibilities when a traumatic injury has occurred. The following language appears on page 40-41:

Provide the employee with one of the following forms, depending on the situation:

— CA-2, Notice of Occupational Disease and Claim for Compensation.

Page 43 of Handbook EL-505 goes on:

Upon receiving the completed CA-2 from the employee, do the following:
— Document on CA-2 the date the form was received.
— Complete the "Receipt of Notice of Occupational Disease or Illness" and give it to the employee or his or her representative.

- *Review the CA-2 for completeness and accuracy. If incomplete, contact the employee or his or her representative for the missing information and assist the employee in correcting any deficiencies found.*
- *Complete the official supervisor's report of occupational disease, items 19 through 34.*
- *Comment on the employee's narrative statement by either confirming, refuting, or providing additional, relevant, and probative information in a separate cover letter to OWCP.*
- *Complete Form 1769, Accident Report.*
- *Submit the completed CA-2, a copy of Form 1769, Accident Report, and all other documentation to the ICCO within 24 hours of receipt from the employee.*

Again, because management failed to provide Form CA-2 to the grievant, they also failed to follow through on the seven tasks set out in the above language.

5. The Union contends this issue is an "obligation under the law" as defined by National Arbitrator Bernstein; therefore, management violated Article 5 of the National Agreement as well.
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. Without the proper forms being provided and/or properly processed at the time of a traumatic injury, an employee's Worker's Compensation benefits could be delayed and/or denied for reasons that are out of the employee's control.

Remedy (block 19 of PS Form 8190):

1. That management cease and desist violating Articles 5 and 21 of the National Agreement along with Section 540 of the ELM and Handbook EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1.
2. That management abide by ELM Section 540 and Handbook EL-505 at all times in the future.
3. That Letter Carrier **[name]** be made whole for any and all lost wages and benefits that occurred as a result of management's actions.
4. That Letter Carrier **[name]** be paid a lump sum of \$100.00 to serve as an incentive for future compliance.
5. 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.

6. 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 relevant 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 violating Article 21 of the National Agreement.

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 violating Articles 5, 19, and 21. 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.
- 3.



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 15, 16 and 19:

1. Copies of any and all Forms CA-2 and PS Forms 1769/301, *Accident Report* 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: _____



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: _____