

{This Grievance starter should be viewed with 8.5D and the letter carrier paragraph; and the understanding that a Work Assignment carrier may be properly required to work over 10 hours if on their own assignment or T-6 string-Route dependent.}

Local Grievance # _____

ISSUE STATEMENT (Block #15 on PS Form 8190):

Did Management violate Article 8, Section 5.F of the National Agreement by working letter carriers in excess of the work hour limits allowed in a service day on **[Date]** and/or days in a service week during the period **[Date]** through **[Date]** at the **[Station/Post Office]**, and if so, what should the remedy be?

UNION FACTS AND CONTENTIONS (Block #17 on PS Form 8190):

Facts:

1. Letter Carrier **[Name]** has not signed the OTDL list and is **[Non-OTDL or on the Work Assignment List]**.
2. Letter Carrier **[Name]** worked **[# of overtime hours]** hours on their 5th scheduled day in a service week (after working overtime on the first 4 regularly scheduled days) on **[Date]**.
3. Letter Carrier **[Name]** worked **[# of hours beyond 10]** hours beyond the 10 hour limit on a regularly scheduled day on **[Date]**.
4. Letter Carrier **[Name]** worked **[# of hours beyond 8]** hours on a non-scheduled day on **[Date]**.
5. Letter Carrier **[Name]** worked **[# of hours beyond 10]** hours beyond the 10 hour limit on a regularly scheduled day on **[Date]**.
6. Letter Carrier **[Name]** worked a total of seven (7) days during the week of **[Date]** through **[Date]**.

[Repeat Fact #1 through #6 for each Non-OTDL/Work Assignment List carrier who worked overtime in one of the following ways:

- on more than four of the five scheduled days in a service week**
- work over ten hours on a regularly scheduled day**
- over eight hours on a non-scheduled day**
- over six days in a service week]**

7. These facts are verified by the Time and Attendance Collection System (TACS) Employee Everything Report (EER) for each letter carrier involved in this case. Copies of each letter carrier's EER are included in the case file.

8. Article 8, Section 5.F of the National Agreement states:

Excluding December, no full-time regular employee will be required to work overtime on more than four (4) of the employee's five (5) scheduled days in a service week or work over ten (10) hours on a regularly scheduled day, over eight (8) hours on a non-scheduled day, or over six (6) days in a service week.

9. Article 8.5.F of the 2022 Joint Contract Administration Manual (JCAM) states in part beginning on page 8-17:

Article 8.5.F applies to both full-time regular and full-time flexible employees. The only two exceptions to the work hour limits provided for in this section are for all full-time employees during the penalty overtime exclusion period (December) and for full-time employees on the ODL during any month of the year (Article 8.5.G). Both work and paid leave hours are considered "work" for the purposes of the administration of Article 8.5.F and 8.5.G.

National Arbitrator Mittenthal ruled in H4N-NA-C-21, April 11, 1986 (C-05860), that an employee on the ODL does not have the option of accepting or refusing work over eight hours on a non-scheduled day, work over six days in a service week or overtime on more than four of the five scheduled days in a service week; instead an employee on the ODL must be required to work up to 12 hours in a day and 60 hours in a week before management may require employees not on the ODL to work overtime. Arbitrator Mittenthal's award does not extend to situations involving a letter carrier working on his or her own route on a regularly scheduled day (See the discussion under 8.5.C.2.d and 8.5.G).

Contentions:

1. Management violated Article 8, Section 5.F of the National Agreement by working/scheduling carriers in overtime as listed above in one of the following ways:

- more than four of the five scheduled days in a service week on **[Date]**
- work over ten hours on a regularly scheduled day on **[Date]**
- over eight hours on a non-scheduled day on **[Date]**
- over six days in a service week during the week of **[Date]** through **[Date]**.

2. Management's contractual violation(s) in this case has/have caused harm to the grievant(s). When Letter Carrier's rights are disregarded trust is eroded between employee and employer, resulting in an atmosphere of disrespect at the workplace. The union has included statements from the letter carriers forced to work in excess of the contractual limits to show the harm these violations have caused.
3. The schedules included in the file along with the TACS reports show that management continued to schedule and require the full-time carriers to perform overtime in excess of the above limits either in a service day or in the service week.

Remedy (Block #19 on PS Form 8190):

1. That management at the **[Station/Post Office]** cease and desist from future violations of Article 8, Section 5.F of the National Agreement.
2. That Letter Carrier(s) **[Name, Name, and Name]** each be compensated at an additional premium of 50% of the base hourly straight time rate for those hours worked beyond the daily work hour limitations and/ or the weekly limitation as follows:

[List names and amounts]

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/management makes the argument of remedies requested are improper:

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/local grievance settlements in the case file when they worked carriers overtime and failed to abide by the work hour limits in a service day and service week in accordance with Article 8.5.F, 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 violating Article 8, Section 5.F 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 Article 8, Section 5.F of the National Agreement. 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 this point.
3. The dispute in this case centers not only on the violation(s) of the aforementioned articles, but also on the remedy for repeated, willful violations of the same contract provision(s), after prior grievances have been settled instructing management to comply with the provision(s). Management may assert there can be no other remedy than that which makes the affected employee(s) whole for demonstrated losses suffered as a result of the violation and the additional 50% compensation. The Union contends that non-monetary remedies and/or injunctive relief is allowed and appropriate where applicable.

Any argument from the Postal Service that the National Agreement does not provide for a remedy in the event of a violation of Article 8.5.G or ELM 432.32 must be rejected.

In case number WIN-SG-C 24783 (C-04543), Arbitrator W. Eaton opined:

It is an ancient and accepted maxim of law in any form, be it common law, statutory law, or the law and practice of collective bargaining, that, "without a remedy, there is no right." The parties to the National Agreement did not fashion empty provisions, nor did they intend that violation of the rights therein provided should occur, or continue without impunity.

United States Supreme Court-Steelworkers v Warrior & Gulf CO
(Steelworkers Trilogy) on Page 4 states in part:

An order to arbitrate the particular grievance should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute. Doubts should be resolved in favor of coverage.

As National Arbitrator Gamser observed in Case No. NC-S-5426:

". . .to provide for an appropriate remedy for breaches of the terms of an agreement, even where no specific provision defining the nature of such

remedy is to be found in the agreement, certainly is found within the inherent powers of the arbitrator."

It is wholly appropriate to construct a non-compensatory remedy for a contract violation. Remedies can be something other than a monetary, such as a cease and desist. The non-monetary remedies are meant to set a path to avoid violations without paying money to the harmed individuals. However, management's established pattern of conduct demonstrates a willful and deliberate act of non-compliance with both the collective bargaining agreement and the aforementioned arbitration awards/prior settlements. The Service has refused to commit to, and adhere to, any non-monetary remedy. The additional 50% compensatory remedy was not intended to, nor does it provide for management to have an unfettered right to work carriers in excess of the maximum contractual hours. Furthermore, management may not act with impunity.

Remedy:

1. That management cease and desist violating Article 15 of the National Agreement.
2. That carriers have the "right to refusal" when requested and/or instructed to work beyond the contractual maximum hours limitations.
3. That management shall inform all letter carriers at the installation in writing that they are permitted to clock out, without disciplinary consequence, when they reach a daily or weekly working hours limit, and provide a copy of the document including signatures of those present during the standup talk, to the Union.
4. That Letter Carrier(s) **[Name], [Name], and [Name]** each be paid a lump sum of \$100.00 as an incentive for future compliance, or any remedy the arbitrator deem appropriate to stop future similar violations.

Name _____ Cell # _____
Station _____ Route # _____
Date _____

Non-OTDL/Work Assignment list carriers are being scheduled/required to work overtime beyond the limits. -more than four of the five scheduled days in a service week
-work over ten hours on a regularly scheduled day
-over eight hours on a non-scheduled day
-over six days in a service week

1. Are you a Non-OTDL/Work Assignment list letter carrier? _____
2. Have you been scheduled/required to work overtime more than four of the five scheduled days in a service week? _____ If yes, list date(s). _____

3. Have you been scheduled/required to work over ten hours on a regularly scheduled day? _____ If yes, list what day(s). _____

4. Have you been scheduled/required to work over eight hours on a non-scheduled day? _____ If yes, list what day(s). _____
5. Have you been scheduled/required to work over eight hours on a non-scheduled day? _____ If yes, list what day(s). _____
6. Is this the first time you have been scheduled to work beyond the work hour limits as you noted above? _____
7. If you were scheduled and required to exceed the above work hour limits, how has that affected you/your personal life? _____

8. Do you want to work Overtime? _____ If not, why not? _____

SIGN _____ DATE _____



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 8 of the National Agreement:

1. TACS Employee Everything reports for Carrier(s) **[Names]** from **[date]** through **[date]**.
2. Copy of the Daily/Weekly Schedule(s) for **[date]** through **[date]**.

I'm 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,

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,

_____ Request received by: _____

Shop Steward
NALC

Date: _____