



## **STEP B DECISION**

**STEP B TEAM:**  
**Tennessee**

Betsy Davis, USPS  
Paul F. Glavin, NALC

District Grieving:  
**Tennessee**

**Decision:**

USPS Number:

Grievant:

Branch Grievance #:

Branch:

Installation:

Delivery Unit:

State:

Incident Date:

Informal Step A Initiated:

Formal Step A Meeting Date:

Date Received at Step B:

Step B Decision Date:

Issue Code:

NALC Code:

**RESOLVED**

C11N-4C-C 17430782

Leath, Jason B.

B4-00141-17

4

Nashville

Bellevue Station

Tennessee

04/04/2017

04/12/2017

05/18/2017

05/23/2017

07/10/2017

41.4950

100904, 504222

### **ISSUE:**

Did Management violate Articles 5, 15 and 19 of the National Agreement via Section 221.131 of the M-39 Handbook, and Step 4 Decisions (M-00814), (M-01216), and (M-00536) when they denied the grievant's request to verify the entire mail count by not allowing him to count the DPS on PS Form 1838C and 1838 while conducting a One Day Count on Route #57 on 04/04/2017? If so, what is the appropriate remedy?

### **DECISION:**

The Dispute Resolution Team (DRT) has **RESOLVED** this grievance. The DRT determines carriers may request and be allowed to count the mail during a one-day mail count, per Step 4 decision (M-01216), which shall include DPS letter mail. The DRT agrees no documentation entered on PS Form 1838 or 1838-C will be used for any purpose to determine the efficiency of Letter Carrier Leath's performance on 04/04/2017.

### **EXPLANATION:**

The Union contends Management violated the National Agreement when they refused Letter Carrier Jason Leath's request to verify the entire mail count by letting him count the DPS. The grievant was given a one day mail count on 04/04/2017 and informed Station Manager Douglas he would like to verify the mail count by counting the DPS. Manager Douglas refused to allow him to do this and informed the grievant that he didn't even have to be allowed to count the cased mail either. The grievant attempted to work out the dispute before it became a grievance by showing Manager Douglas the contractual provisions regarding this issue but was told the time for counting mail was done and for him to just file a grievance. The file contains multiple Step 4 Decisions which reveal the parties at the National Level have determined the entire

count will be verified upon request. The Union requests Management ordered to cease and desist refusing letter carriers to verify the entire count.

Management contends Articles 5, 15 and 19 of the National Agreement were not violated when they refused to allow Letter Carrier Leath to count his DPS mail when he requested to verify the mail on his route. There was only an office count performed on the day in question which revealed he met the minimum standards which are required for him to meet in the office. Carrier Leath was then provided with the End of Run Report to verify the amount of DPS he was carrying that day to ensure the volume was recorded correctly onto his 1838-C. Management does not agree with allowing Carriers to count their DPS mail during mail counts when the volume is recorded by machines and a copy of this volume can be provided to the carrier as verification.

The case file contains a statement submitted by Steward Jason Leath which reads in part as follows:

On 04/03/17 I was informed via post it note that on 04/04/17 I would be receiving an 1838-C on Route #57...I then informed Manager Douglas that I would like to verify my entire DPS mail. Manager Douglas shook his head and said JB we don't have to let you verify your DPS. I (Manager Douglas) can give you that number from the EOR report. I again requested to Manager Douglas that I would like to verify my entire mail count of everything that was being written down on PS Form 1838-C. Manager Douglas responded that Management doesn't have to even allow carriers to count case mail let alone our DPS mail that isn't going to be cased...Again I asked Manager Douglas one last time as part of my contractual rights under the M-39 and several Step 4 agreements, could I verify my DPS mail before this dispute results in a grievance. Manager Douglas again replied no JB I have given you the DPS EOR report with the volume number we are not going to count anymore you can just file your grievance.

Management contentions read in part as follows:

Management further contends that Section 221.13 of the M-39 states that the carrier may verify the mail count. Management allowed the carrier to verify the DPS Count when a copy of the End of Run Report taken directly from the plant with the number of DPS mail for his route was provided to Mr. Leath. This was to ensure that the volume was correctly recorded onto his 1838C. Even if Mr. Leath counted every piece of his DPS mail, this would have been recorded as a Line 22 event that is an office activity not performed on a continuing basis which is excluded in computing the net office time used. Management does not agree with allowing carriers to count their DPS mail during mail counts when the volume is recorded by machines the mail is processed on. A copy of the DPS volume can be provided to the carrier as verification.

Section 141.2 of the M-39 Handbook reads in part as follows:

#### Special Office Mail Counts

When management desires to determine the efficiency of a carrier in the office, a count of mail may be made. The carrier must be given one day's advance notification of this special count. Use Form 1838-C to record count and time items concerned. *The carrier must be advised of the result of the office mail count.*

The DRT directs the parties to Step 4 Decision (M-00814) dated July 8, 1987, H4N-5T-C 42333 which reads in relevant part as follows:

Normally, a spot verification of the mail volume is adequate to determine that the mail count is accurate. **However, the parties agree that based on the intent of Section 221.131 of the M-39 Handbook, the carrier may, upon request, verify the entire mail count.**

Step 4 (M-00536) Decision dated February 11, 1985, H1N-3T-C 36385 reads in part as follows:

Based on the intent of Section 221.131 of the M-39 Handbook, the carrier may, upon request, verify the entire mail count.

The DRT notes Section 221.131 of the M-39 Handbook as referenced by the Union specifically covers 6-day mail counts. This instant case refers to a one-day office count; the Step B team agrees the below referenced document covers this issue.

The file includes Pre-arbitration (M-01216) dated April 11, 1995, H7N-3Q-C 38909/39493 which reads as follows:

The issue in these cases is whether management violated the National Agreement by not allowing carriers to count the mail counted by the supervisor during a "one day count". During our discussions, we mutually agreed to the following: **On the day of a "one day count" when management performs the mail count the carrier serving the route, upon request, may verify the count.**

The DRT determines Management violated the above decision when they refused Letter Carrier Jason Leath's request to verify the entire mail count by letting him count the DPS on the day of his one day mail count so he could determine the accuracy of the pieces of mail he was credited for on PS Form 1838-C provided by the End of Run Report he was given.

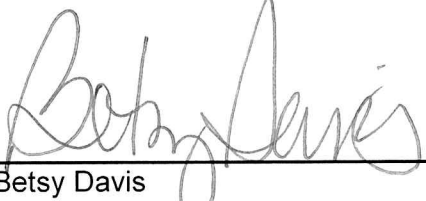
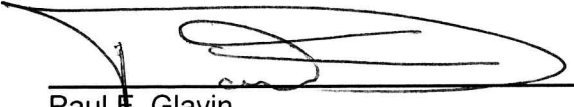
The Dispute Resolution Team (DRT) has **RESOLVED** this grievance. The DRT determines carriers may request and be allowed to count the mail during a one-day mail count, per Step 4 decision (M-01216), which shall include DPS letter mail. The DRT agrees no documentation entered on PS Form 1838 or 1838-C will be used for any purpose to determine the efficiency of Letter Carrier Leath's performance on 04/04/2017.

This grievance file contained the following documents:

- (1) PS Form 8190
- (2) Grievant Statement
- (3) Carrier Statement (2 Pages)
- (4) M-39 Handbook Page 91
- (5) (M-01391)
- (6) (M-01216)
- (7) (M-00814)
- (8) (M-00536)
- (9) NALC Route Protection Program (2 Pages)
- (10) PS Form 1838C (2 Pages)
- (11) Request for Information
- (12) Request for Steward Time
- (13) Union Contentions (8 Pages)
- (14) End of Run Carrier Counts (2 Pages)

- (15) PS Form 1838
- (16) PS Form 2608

In reaching the above decision, the DRT carefully reviewed each of the documents and placed the appropriate value to each as it applied to the issue in this grievance.

  
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Betsy Davis  
USPS Step B Representative  
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Paul F. Glavin  
NALC Step B Representative

USPS Number C11N-4C-C 17430782

Cc: Pete Moss, NALC NBA Region 8  
Jill Miniard, Eastern Area Labor Relations Manager  
Michael Kulikowski, Eastern Area Labor Relations  
Kimberly Oliver, USPS Formal A Representative  
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Ruth Bland, District Human Resources Manager (A)  
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