



STEP B DECISION

STEP B TEAM:**Tennessee**Monica Lucas, USPS
Paul F Glavin, NALCDistrict 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

C16N-4C-C 19151583

Class Action

B4-00127-19

4

Nashville

Glenview

Tennessee

Ongoing

02/27/2019

03/22/2019

03/29/2019

05/07/2019

19.2000

507799

ISSUE:

1. Did Management violate the Step 4 settlements for case numbers H1N-1J-C 40875 (M-00544) and H90N-4H-C 95018608 (M-01302) and Section 3 of the Administrative Support Manual (ASM) via Articles 15 and 19 of the National Agreement when they established a policy requiring the carriers to comply and sign a non-postal form? If so, what is the appropriate remedy?
2. Did Management violate Articles 15, 17, 31 and 41 of the National Agreement via Step B Decision C16N-4C-D 18442360 and multiple more for the Nashville Installation when they failed to provide the attendance letter signed by Letter Carrier Patty Reid and provide information in a timely manner? If so, what is the appropriate remedy?

DECISION:

The Dispute Resolution Team (DRT) has **RESOLVED** this grievance. The DRT agrees Management at Glenview station violated the National Agreement when requiring city letter carriers to sign "Welcome Back Letters" or "Return to Work Letters." Management will cease and desist this practice. The DRT also agrees the letters signed by carriers Ligon, Reid, Stuart and Weaver will be removed from their personnel files immediately upon receipt of this decision and will not be cited or relied upon in any future disciplinary actions.

EXPLANATION:

The Union contends Management violated the National Agreement I when they utilized and required letter carriers to sign a locally developed form which has not been approved of in accordance with Chapter 3 of the Administrative Support Manual (ASM). This locally developed form is not listed in Postal Service Publication 223 nor does it have a recognized form number therefore, it is not a form authorized for use. The parties at the National level have already addressed the issuance of locally generated forms not in accordance with ASM Chapter 3 are to be immediately discontinued. The National level parties

have also determined that there is no requirement that a carrier sign the subject material as received. Management is arbitrarily soliciting and requiring carriers to sign a non-postal form as evidenced in the statements contained in the case file. The Union contends Glenview Station Management violated Articles 17 and 31 when they failed to provide information in a timely manner. Their failure to provide this information also resulted in a violation of Article 15. The Union requests that Management cease and desist violating Step 4 settlements when issuing locally generated non-postal forms not promulgated in accordance with the ASM and to discontinue their use.

Management contends M-00544 cited by the Union is in regards to operation of postal vehicles and whether management properly used and developed a form relative to such. The issued being grieved in this case is attendance and not operation of a postal vehicle. It mentioned the use of a locally generated form and it also states carriers are not to be required to sign the form or acknowledge the information was received. It also mentions that management has the right to document the fact that specific provisions of handbooks and manuals were reviewed by the carrier and that the information was provided to the carrier. Management is using the form, in this case, as a Welcome Back Letter for Attendance to discuss and make a personal notation of the date for their, if the carrier so chooses, own personal records. Management contends the "Welcome Back Letter" or the "Return to Work Letter" is a form issued by labor to aid management and to insure they are citing correct ELM Articles by giving employees the correct information and while having a discussion on the employees' attendance, positive or negative. There is no local policy stating that an employee must sign these letters. Article 15 has not been violated as the grievant has had the opportunity to file a grievance. Article 19 is irrelevant in this case. All information was provided to the Steward in a timely manner. Therefore, there is no violation of Articles 17 or 31. No violation has been committed under Article 16 as it is Management's responsibility to discuss minor offenses with employees. Management requests NALC Branch 4 cease and desist from filing frivolous grievances in an attempt to stop local management from effectively managing its operation. Additionally, no employee has been discipline for failing to sign a return to work letter.

Page 19-2 of the JCAM states the following:

Local Policies. Locally developed policies may not vary from nationally established handbook and manual provisions (National Arbitrator Aaron, H1N-NAC-C-3, February 27, 1984, C-04162). Additionally, locally developed forms must be approved consistent with the *Administrative Support Manual* (ASM) and may not conflict with nationally developed forms found in handbooks and manuals.

The DRT notes the handouts provided to carriers contains POSTAL SERVICE ATTENDANCE POLICIES at the top of the letter. The body of the notification lists the Postal Service Attendance requirements per the Employee and Labor Relations Manual (ELM).

The case file contains a statement from carrier Patsy Reid which reads as follows:

I was told to sign the attendance form. I would like the form to be removed from all files and not used or cited for any future disciplinary actions.

Carrier Bianca Weaver responds as follows in an interview performed by the Union:

...can you text me a statement on what happened the day Anna tried to get you to sign that attendance form? She only said just sign it! She just had come over and was like it needed to be signed, I asked you do, I sign it. She signed it and took it back.

Carrier Joslyn Stuart submits a statement which reads in relevant part as follows:

When I returned from my absence Anna told me to sign the attendance form. I was not given a choice to sign it and I did not knowing I had a choice.

The Union performed an interview with carrier Leslie Ligon as follows:

...When they issued you the letter of warning for attendance. I requested the information for the discipline. This letter was in your file. Is this your signature? Yes it is

Ok...were you told to sign it? Yes

Management contends that there is no local policy stating an employee(s) must sign a "Return to Work" or "Welcome Back Letter". However, the statements and interviews submitted by the Union reveal otherwise. Management failed to dispute any of the specific allegations contained within the case file.

The DRT directs the parties to Step 4 Memorandum of Understanding (M-00015) dated November 17, 1977, NC-S-8696, which reads in relevant part as follows:

Signatures or initials may be required to verify attendance at a meeting, receipt of a document, etc. However, to require an employee to sign that he has read and understood instruction, as a condition of employment for which disciplinary action may be administered, is inappropriate.

The DRT notes the above referenced Step 4 decision reveals an employee cannot be required to sign that he or she has read and understood instruction for which disciplinary action may be administered. This subject grievance was initiated when the Union was notified by a carrier that Management was requiring her to sign the letter as being received.

The DRT recognizes the Step 4 decision for H1N-1J-C 40875, M-00544, is relevant to this instant grievance as follows:

Management may document the fact that specific provisions of handbooks and manuals were reviewed by the carriers and that information regarding vehicle operations was given to the carriers. However, inasmuch as there is no national requirement for carriers to acknowledge that the subject information was received, carriers should not be required to sign a local form.

The DRT cites the following Step 4 for H90N-4H-C 95018608, M-1302, in relevant part as follows:

The issue in this grievance is whether management violated the National Agreement when a local policy was issued and carriers were required to sign off that they were present when the information was read to them.

After reviewing this matter, the parties mutually agreed to the following:

There is no requirement that a carrier sign that the subject information was received.

Management submits a copy of the letter which contains only a space for Management to sign and date the form. The Union alleges there is a space at the bottom of the form allotted for the required employee signature. However, copies of the letter submitted by the Union do not contain a dedicated space for the employee to sign with the only exception being the letter provided to Joslyn Stuart.

Management includes the following in the submitted contentions:

The "Return to Work" or, often referred to as "Welcome Back Letter", is a form issued by labor to aid management and insure they are citing correct Employee Labor Manual Articles and giving employees correct information, **while having a discussion on the employees attendance**, positive or negative...Management contends no violation(s) have been committed and under Article 16 of the National Agreement, **it is management's responsibility to discussion [sic] minor offenses with employees**. Management, also cites article 16, Discipline Procedures, of the NALC-USPS Joint Contract Administration Manual page 16.2 Discussion:

"...While such discussions may not be cited as an element of prior adverse record in any subsequent disciplinary action against an employee, they may, where relevant and timely, be relied upon to establish that employees have been made aware of their obligations and responsibilities."

The DRT agrees Management's utilization of the "Welcome Back Letter" or "Return to Work Letter" as a substitute for a discussion is improper and violates Article 16 of the National Agreement.

Article 16.2 of the National Agreement reads as follows:

16.2 Section 2. Discussion

For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor. Such discussions are not considered discipline and are not grievable. Following such discussions, **there is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal record(s). However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder.** While such discussions may not be cited as an element of prior adverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities.

Page 16-5 of the JCAM contains the following:

Both the supervisor and the employee may keep a record of the discussion for *personal* use, however these are not to be considered official Postal Service records. **They may not be included in the employee's personnel folder**, nor may they be passed to another supervisor.

The DRT determines Management is improperly utilizing the letter as a method of documenting a discussion. Management is prohibited from including in any employee's personnel folder a written record of a discussion. The contractual provisions regarding discussions are sufficiently described in the above referenced Article 16 language. Management solely providing Postal Service policies to employees rather than following the instruction of Article 16.2 cannot be considered as a discussion.

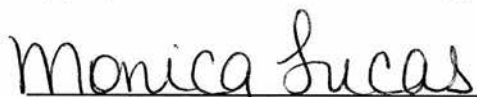
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This grievance file contained the following documents:

- (1) PS Form 8190
- (2) Issue Statement and Remedy Requested
- (3) Union's Contentions, 11 pages
- (4) Steward's Statement
- (5) Did you develop...
- (6) I was told...
- (7) Postal Service Attendance Policies, 2 pages
- (8) Text Messages
- (9) Statements and forms, 3 pages
- (10) Investigative Interview, 2 pages
- (11) Text messages and forms, 4 pages
- (12) Statement
- (13) Arbitration Award for MB-NAT-562/MB-NAT-936, 16 pages
- (14) M-01517
- (15) John Potter letter

- (16) M-00852, 2 pages
- (17) M-01325
- (18) M-01302
- (19) M-00544
- (20) Steward's Statement
- (21) Union's Request for Information
- (22) NLRA citations
- (23) M-01094
- (24) M-00316, 2 pages
- (25) Tuscaloosa Arbitration Award for G11N-4G-C 14200265, 10 pages
- (26) Tuscaloosa Arbitration Award for G11N-4G-C 14200245, 12 pages
- (27) Step B Decision for C16N-4C-D 18442360, 5 pages
- (28) Step B Decisions page 1 (some also include page 2), 14 pages
- (29) Formal Step A Settlements, 11 pages
- (30) JCAM pages, 12 pages
- (31) E-mail and attachments, 14 pages
- (32) Management's Contentions, 3 pages
- (33) M-00544
- (34) M-1302
- (35) Postal Service Attendance Policies
- (36) Page 16-4 of the JCAM

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.



Monica Lucas
USPS Step B Representative



Paul F. Glavin
NALC Step B Representative

USPS Number: C16N-4C-C 19151583

Cc: Steve Lassar, NALC NBA, Region 8
Jill Miniard, Eastern Area Labor Relations Manager
Michael Kulikowski, Eastern Area Labor Relations Representative
Sharon Bowers, Management Formal A Representative
Jason Leath, NALC Formal A Representative
Christopher Alexander, District Manager
Barbara Kirchner, District Human Resources Manager
Nita Fournier, District Labor Relations Manager