

Local Grievance # _____

Issue Statement (Block 15 of PS Form 8190):

1. Did Management violate Article 8.4.B of the National Agreement by failing to pay Letter Carriers at the **[Station/Post Office]** out-of-schedule premium when Management required them to work outside of their regular schedules on **[date(s)]**, and if so, what should the remedy be?

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

Facts:

1. The following Letter Carriers [Name(s)] have full-time bid assignments with the following permanent schedules properly awarded under Article 41 of the National Agreement at the **[Station/Post Office]**:

<u>Name</u>	<u>Assignment</u>	<u>Schedule</u>

2. The following Letter Carriers were temporarily reassigned by Management to work the following temporary assignments and schedules at the **[Station/Post Office]** on **[date(s)]**:

<u>Name</u>	<u>Assignment</u>	<u>Schedule</u>

3. The Letter Carriers listed above were temporarily reassigned by Management effective **[date(s)]** to work schedules different from their bid assignments properly awarded under Article 41 of the National Agreement.

4. Management did not pay out-of-schedule premium for the hours these carriers worked outside of their permanent schedule for any of the days from **[date]** through **[date]**. These facts are verified by the **[carrier statements/interviews]** included in the case file.
5. All temporary changes of schedule were unilaterally created by management.
6. JCAM pages 8-4 through 8-7 states:

“Out-of-Schedule Premium. Article 8.4.B refers to the out-of-schedule premium provisions contained in ELM Section 434.6. They provide that out-of-schedule premium is paid at the postal overtime rate to eligible full-time bargaining unit employees for time worked outside of, and instead of, their regularly scheduled workday or workweek when employees work on a temporary schedule at the request of management.”

“Rules for Out-of-Schedule Premium. In the letter carrier craft the out-of-schedule premium provisions are applicable only in cases where management has given advance notice of the change of schedule by Wednesday of the preceding service week. In all other cases a full time employee is entitled to work the hours of his or her regular schedule or receive pay in lieu thereof and the regular overtime rules apply—not the out-of-schedule premium rules.

- *If notice of a temporary change is given to a full-time employee by Wednesday of the preceding service week, even if this change is revised later, management has the right to limit the employee’s work hours to the hours of the revised schedule and out-of-schedule premium is paid for those hours worked outside of, and instead of, his or her regular schedule.*
- *If notice of a temporary schedule change is not given to a full-time employee by Wednesday of the preceding service week, the employee is entitled to work her or his regular schedule and the out-of-schedule provisions do not apply. In this case any hours worked in addition to the employee’s regular schedule are not considered out-of-schedule premium hours. Instead, they are paid as overtime hours worked in excess of 8 hours per service day or 40 hours per service week.*

Out-of-schedule premium hours cannot exceed the unworked portion of the full-time employee’s regular schedule. If employees work their full regular schedule, then any additional hours worked

are not instead of their regular schedule and are not considered as out-of-schedule premium hours. Any hours worked which result in paid hours in excess of 8 hours per service day or 40 hours per service week are paid at the overtime rate.

Out-of-Schedule Premium - Daily Schedule Examples

Example Number	Hours Worked	Total Hours Worked	Premium Hours	Straight Time Hours	Overtime Hours
1*	8:00 am-4:30 pm	8	0	8	0
2	6:00 am-2:30 pm	8	2	6	0
3	6:00 am-3:30 pm	9	1	7	1
4	6:00 am-4:30 pm	10	0	8	2

* Original, permanent schedule

Daily Schedule Examples. The following examples, which refer to the chart above, illustrate the out-of-schedule premium rules.

- **Example 1.** This is the employee’s original, permanent schedule of 8:00 a.m.—4:30 p.m. and an 8-hour workday. The employee receives 8 hours of straight-time pay.
- **Example 2.** For examples 2 through 4, the employee has received advance notice by Wednesday of the preceding service week of a schedule change to 6:00 a.m.-2:30 p.m. In this example the employee works the revised schedule’s hours only, and receives two hours of out-of-schedule premium for the hours 6:00-8:00 a.m., which were worked outside of and instead of the regular schedule.
- **Example 3.** The employee works the revised schedule plus one additional hour. The employee receives one hour of out-of-schedule premium pay, because of time worked outside of and instead of his or her regular schedule. However, out-of-schedule premium hours cannot exceed the unworked hours of the employee’s permanent schedule (there is only one such hour here), so the extra work hour is paid as contract overtime rather than out-of-schedule premium.
- **Example 4.** In this example the employee works the revised schedule plus two hours of overtime. Two hours of postal overtime are paid but no out-of-schedule premium, because the employee has worked his or her full, permanent schedule.

Weekly Schedule Example. For example, an employee’s regular schedule is Monday through Friday and she is given timely notice of a temporary schedule change to Sunday through Thursday, with the same daily work hours. She works 8 hours per day Sunday through Thursday. The hours worked on Sunday are out-of-

schedule premium hours provided they are worked instead of the employee's regularly scheduled hours on Friday. However, if the employee also works her regular schedule on Friday, then there can be no out-of-schedule premium hours. The employee is paid overtime for the hours worked in excess of 40 during the service week."

7. Section 434 of the Employee and Labor Relations Manual (ELM) states:

434.6 Out-of-Schedule Premium

434.61 Policy

434.611 General

Out-of-schedule premium is paid to eligible full-time bargaining unit employees for time worked outside of and instead of their regularly scheduled workday or workweek when employees work on a temporary schedule at the request of management.

434.612 Timely Notice

Payment of out-of-schedule premium is dependent on timely notice being given by management of the temporary schedule change, as follows:

- a. *If notice of a temporary change is given to an employee by Wednesday of the preceding service week, even if this change is revised later, the employee's time can be limited to the hours of the revised schedule, and out-of-schedule premium is paid for those hours worked outside of and instead of his or her regular schedule.*

If notice of a temporary schedule change is not given to the employee by Wednesday of the preceding service week, the employee is entitled to work his or her regular schedule. Therefore, any hours worked in addition to the employee's regular schedule are not worked "instead of" his or her regular schedule. The additional hours worked are not considered as out-of-schedule premium hours. Instead, they are paid as overtime hours worked in excess of 8 hours per service day or 40 hours per service week.

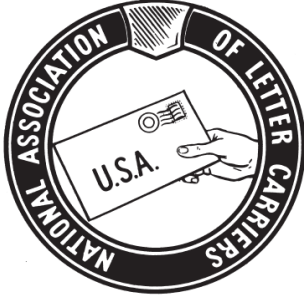
Contentions:

1. Management violated Article 8.4.B. of the National Agreement by failing to pay out-of-schedule premium to the Letter Carriers at the **[Station/Post Office]** for work they were required to perform work on **[date]** through **[date]** outside of their regular schedule, at the request of Management.
2. Management unilaterally changed the Letter Carriers' schedules and required them to work on temporary duty assignments outside of their normal work schedules.
3. The permanent schedule of each employee is shown at the top of each TACS Everything Report contained in the case file.

4. The TACS Employee Everything Report for each Letter Carrier shows the time worked outside of his/her permanent schedule for each day.
5. The language quoted above from the April 2009 JCAM states that out-of-schedule premium will be paid at the postal overtime rate, which is an additional 50% straight time pay. The appropriate "make whole" remedy for the cited violations is that an additional 50% straight time pay be paid to each Letter Carrier for all time worked out of his/her normal work schedule while working the temporary schedules associated with this case.

Remedy (Block 19 of PS Form 8190)

1. Management ceases and desist violating Article 8 of the National Agreement and Section 434 of the ELM via Article 19 of the National Agreement
2. Management will immediately pay Letter Carrier(s) **[name(s)]** out-of-schedule premium, as required by Article 8 of the National Agreement, for hours worked outside of their regular schedule.
3. Management will immediately pay Letter Carrier(s) **[name(s)]** the hours they should of worked in their regular schedules but did not, as required by Article 8 of the National Agreement.
4. Letter Carriers [name(s)] be paid a lump sum of \$50.00 for each violation to encourage contract compliance.
5. All payments associated with this case be made as soon as administratively possible, but no later than, 30 days from the date of this agreement. Proof of payment be provided to **[NALC Official]** upon payment.



National Association of Letter Carriers Request for Information

Date _____

Supervisor Customer Services

Station/Installation

Dear _____,

Pursuant to Article 17 and 31 of the National Agreement, I am requesting the following information:

1. Weekly Carrier Schedule
2. Employee Everything Reports for **[date(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: _____
(Manager/Supervisor)

Station/Post Office

Manager/Supervisor _____

Pursuant to Article 17 and 31 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 that 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,

Shop Steward
NALC

Request received by: _____
Date: _____