

Local Grievance # _____

Issue Statement (Block 15 of PS Form 8190):

Was the Letter of Warning dated **[date]** issued to Letter Carrier **[name]** for just cause in accordance with Articles 15, 16 and 19 of the National Agreement, Section 115 of the M-39 Handbook, M-00326 and M-01664, and if not, what should the remedy be?

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

Facts:

1. Letter Carrier **[name]** was issued a Letter of Warning dated **[date]** charging him/her with "**[charge]**".
2. Letter Carrier **[name]** has over **[number of years]** years of faithful service with the Postal Service and had no discipline in his/her record.
3. The Letter of Warning was based solely on events that allegedly took place on **[date]**. Management charged that on **[date]**, the grievant worked **[number of minutes]** minutes of unauthorized overtime.
4. The grievant notified management of his/her inability to complete his/her assignment in 8 hours via PS Form 3996 on the day in question (a copy of the PS Form 3996 is included in the case file). Management disapproved **[number of hours;minutes]** the grievant needed to complete his/her assignment on the day in question. The grievant's reason(s) for his/her request for overtime/auxiliary assistance are listed on his/her PS Form 3996. According to the grievant's statement (included in the case file), he/she couldn't complete his/her assignment in the approved time on the day in question. The grievant called back to the office to ask for further instructions and was directed to finish his/her assignment. The grievant followed his/her instructions.
5. The Step 4 Settlement (M-00326) states in relevant part:

"...the grievants did inform management of their inability to complete their routes in 8 hours. Further, it was demonstrated that they were ordered by management to complete their routes. (Although there was no expressed authorization to complete the delivery of the mail on an overtime basis, the permissions would be inherent in the authorization to continue delivery after notification that the grievants were unable to complete the routes.)..."

Contentions:

1. The Agency failed to consider the grievant's **number of years** years of service as a mitigating factor in this case.
2. Management violated National Level Settlement M-01664 by using the DOIS Program to determine beginning, leaving, and return times for the grievant on the day in question. Management failed to consider and grant time for some of the reasons/elements contained on PS Form 3996 for the grievant on the day in question. That aside, one of the inherent problems with making decisions using DOIS (as was done in this case) is that the projected leaving times in DOIS don't ever consider the actual leaving time of a Letter Carrier. Therefore, when a letter carrier is projected to leave the office at 8:30 in DOIS, but actually leaves the office at 9:30 due to the particular circumstances in the office that morning, the letter carrier is automatically denied that hour of time needed to complete his/her assignment.
3. Street time projections are similarly flawed in DOIS. DOIS street projections take no time consideration for the amount of DPS mail a letter carrier has to deliver on a given day. Accordingly, if a letter carrier normally gets around 1,200 pieces of DPS mail, but receives 2,500 pieces of DPS mail on a given day, he/she would get no time to deliver the extra mail in DOIS. Additionally, DOIS takes no consideration of the percent of coverage a Letter Carrier has on a given day.
4. There are a host of other street factors that may be present that DOIS projections don't consider. Once again, the letter carrier is automatically denied the extra time needed to complete his/her assignment when many different street time factors are present. DOIS will make the exact same street time projections for any route every day regardless of what circumstances are present.
5. Supervisors follow DOIS and don't consider any of the factors outlined above as well as many others not specifically listed when making decisions on PS Form 3996. For all these reasons, discipline issued as a result of a letter carrier not being able to complete his/her assignment in the time approved on PS Form 3996 cannot stand the test of just cause.
6. Rules must be reasonable. The rule that a letter carrier must make it back in the time approved on PS Form 3996 (even when he/she calls for further instructions, is told to complete his/her assignment, and follows the instructions given) under the circumstances surrounding this case is not a reasonable rule.
7. Article 16 of the National Agreement states:

"In the administration of this Article, a basic principle shall be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined except for just cause..."

8. Management lacked just cause to issue discipline in this case. The discipline issued was punitive rather than corrective in nature.
9. The supervisor was well aware of the work that needed to be performed. With this knowledge, the supervisor instructed the grievant to perform the work involved. Under these circumstances, it is inappropriate to record the time spent performing the work as “unauthorized”. This is true for two reasons. First, the supervisor clearly authorized the work to be performed by instructing the grievant to perform the work. Second, the authorization to work overtime to perform the work was “inherent” in accordance with Step 4 Settlement M-00326 (included in the case file).
10. Management failed to follow Section 115.1 of the M-39 Handbook, which states:

115 **Discipline**

115.1 **Basic Principle**

In the administration of discipline, a basic principle must be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause. **The delivery manager must make every effort to correct a situation before resorting to disciplinary measures.** (Emphasis added)

11. Management did not pass the *any effort* test, much less the *every effort* test to correct this situation prior to resorting to discipline in this case. If management doubted the grievant’s time estimate on the day in question, they had every right to conduct street supervision, or better still, they had every right to get in the truck and ride with the grievant all day. The grievant gave reasonable answers when asked about the day in question.
12. Management ignored the grievant’s explanations and issued him/her a letter of warning. This leads to the conclusion that the decision to discipline was made before the grievant was questioned. The investigative interview was merely a formality and therefore a sham. The record in this case fully supports the conclusion that the delivery manager didn’t make any effort whatsoever to correct this situation before resorting to discipline.
13. Section 115.3 (b) of the M-39 Handbook states:

115.3 **Obligation to Employees**

When problems arise, managers must recognize that they have an obligation to their employees and to the Postal Service to look to themselves, as well as to the employee, to....

b. Make absolutely sure you have all the facts.

14. Management completely ignored this requirement in this case. There was no objective investigation in this case. An objective investigation would have required management to acknowledge that some of the items listed on the grievant's PS Form 3996 weren't granted any time credit despite the fact that these are functions that cause any letter carrier to use more time than usual.

15. Section 115.3 (d) of the M-39 Handbook also states:

115.3 Obligation to Employees

When problems arise, managers must recognize that they have an obligation to their employees and to the Postal Service to look to themselves, as well as to the employee, to....

d. If the employee's stand has merit, admit it and correct the situation. You are the manager; you must make decisions; don't pass this responsibility on to someone else.

16. That certainly didn't happen in the instant case. The grievant notified management of his/her inability to complete his/her assignment as required by Section 131 of the M-41 Handbook via PS Form 3996. Management didn't act as required by Section 122 and/or Section 115.4 of the M-39 Handbook. The supervisor should tell a letter carrier in the morning (before he/she leaves the office) what to do with the mail if he/she is unable to comply with the instruction of being back at a certain time.

17. The grievant called back to the station for further instructions on the day in question. A manager instructed the grievant to complete delivery of the mail. The grievant followed his/her instructions. A review of the facts associated with this case show the grievant's stand had merit. Rather than correct the situation, management issued the grievant a letter of warning. This is a direct violation of Section 115.3 of the M-39 Handbook.

18. Management placed the grievant in a "Catch-22" situation on the day in question. If the grievant returned in the time approved without completing all deliveries, he/she would be facing disciplined. If the grievant followed his/her instructions (as here), he/she still faces disciplined. Instructions have to be reasonable. Management gave the grievant instructions that were impossible to follow in the morning on the day in question. The grievant called back to the office for further instructions and followed the instructions he/she was given to the best of his/her abilities. Just cause simply can't be established under the circumstances present in this case.

Remedy (Block 19 of PS Form 8190):

1. That the Letter of Warning dated **[date]** issued to Letter Carrier **[name]** charging him/her with "**[charge]**" be rescinded and expunged from all employee records and files effective immediately.



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 Articles 15, 16 and 19:

1. Copy of PS Form(s) 3996 for Letter Carrier(s) **[name(s)]** for **[date]**.
2. Copy of TACS Employee Everything Reports for Letter Carrier(s) **[name(s)]** from **[date]** to **[date]**.
3. Copy of PS Forms 1017B for the week of **[date]** through **[date]**.
4. Copy of Letter Carrier **[name]** Investigative Interview.
5. Copy of the Request for Discipline for Letter Carrier **[name]** dated **[date]**.
6. A copy of the Workhour/Workload Report (by Route) for Route for the period of **[date]** to **[date]**.
7. A copy of the Workload Status Report for **[Station/Post Office]** for **[date]**.

I am also requesting copies of any and all documents, statements, records, reports, audio/video tapes, photographs, or other information learned, obtained, developed or relied upon by the Postal Service in the issuance of the _____ dated **[date]**, involving Letter Carrier **[name]**.

I am also requesting time to interview the following individuals:

1. **[name(s)]** at the **[Station/Post Office]**

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: _____