Steward Link

National Rural Letter Carriers' Association

Volume 3, Issue 3 September 2002

Rural Carriers Working Off the Clock

Working off the clock was one of the issues thoroughly discussed during a recent National Board meeting. No one can say with certainty how many hours the practice of working off the clock contributes to the "bump" and to what degree Arbitrator Wells was influenced by the seemingly large gap between actual hours and standard hours. **However, we can say with certainty that whatever the numbers are, this practice harms all rural carriers! Any time contributed to the bump by working off the clock, regardless of the amount, hinders the craft's ability to bargain for additional time and/or compensation.** Although in the past we have been hesitant at all levels of this union to aggressively police our own, **this craft no longer has the luxury of looking the other way when some of our fellow craft members work off the clock.**

Therefore, the National Board will kick off a campaign to rid the rural craft of this serious problem with an article in an upcoming issue of *The National Rural Letter Carrier*. We will be putting both craft members and management on notice that working off the clock will not be tolerated by the leadership of this union at any level.

Although electronic time keeping will soon be extended to rural delivery and eventually all rural carriers may no longer record time on the PS Form 4240, every hour that is worked off the clock has a negative impact on this craft. Negotiations for a new contract are just two years away. Every effort needs to be expended to ensure the accuracy of the relationship between work performed and actual hours recorded.

All craft members, not just state stewards, assistant state stewards, area, and local stewards, will be essential in the effort to eliminate the practice of working off the clock. As always there will be resistance by some, but we cannot be deterred from doing what serves the greater good. If the grievance procedure seems wanting in some circumstances, charges of unfair labor practices may have to be considered as a supplemental tool. This National Board is committed to using whatever means necessary to accomplish the mission. We all have a role to play. Let's begin.

The first step has been taken

The first step has been taken. During negotiations between the Postal Service and the National Rural Letter Carriers' Association, an agreement was reached that a policy statement would be issued by the Postal Service regarding working off the clock. That policy statement was recently sent to the field by the Postal Service. Although the policy statement does not contain the strong language we would have preferred, it does offer a beginning. A copy of that policy statement appears on page 7 in this issue of the *Steward Link*.

Next step rests with . . . our craft

The next step now rests with the members of our craft. It is going to be up to all of us to ensure that management follows through with the provisions of their policy statement.

In all likelihood, the first question that comes to everyone's mind is, "What should I do when I learn about or I see that someone is working off the clock?" If you have a local steward in your office, you should let that local steward know immediately.

If you are the local steward and a carrier makes you aware that another carrier is working off the clock, what should you do? The first thing the local steward should do is approach the carrier who is working off the clock and make them aware that what they are doing is improper. Explain to the carrier they should be recording all time worked on the 4240. Then explain the ramifications of their actions and the possible consequences if they continue to work without properly documenting their time on the 4240.

If there is no local steward in an office, any craft member can approach the carrier who is working off the clock and explain to them why they should not be working off the clock. If individual craft members are not comfortable doing this, they should contact an area, assistant, or state steward and let him or her know what is taking place. The certified steward should make contact with the carrier and explain the possible repercussions of their actions.

Once a steward becomes aware of carriers working off the clock, the steward has counseled the carrier, and the carrier continues to work without properly recording the hours, the steward should approach management. The steward should share the details of what is happening and ask management to ensure that all hours worked are being recorded.

According to the Fair Labor Standards Act (FLSA) of 1938 as revised, "Every employer subject to any provision of the Act or of any order issued under this Act shall, make, keep, and preserve such records of the persons employed by him and of the wages, hours and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom (sic) to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder (sic)." To put this in

everyday terms, it is the responsibility of the employer to ensure that all hours worked are accurately recorded.

Grievances against management may be necessary

If management fails to correct the problem or chooses to ignore the fact that hours are being worked and not recorded, it may become necessary to file a grievance to ensure compliance with the contract and FLSA. Before a grievance is filed, the steward might want to consider asking an assistant state steward or a state steward to go to the manager of post office operations, or if necessary to the district manager, to make them aware of the failure of their subordinates to comply with the contract and FLSA. By attempting to resolve the issue prior to initiating a grievance, the steward has put the manager on notice. If all the efforts of the steward to resolve the problem fail, the steward should file a grievance.

When filing a grievance regarding the issue of working off the clock, the steward needs to remember that the grievance is being filed **against management** for allowing employees to work without compensation. The grievance **is not against the employee**. Managers will often deny that they were aware of anyone working off the clock. This is not an acceptable excuse.

When filing a grievance regarding the issue of working off the clock, the steward needs to remember that the grievance is being filed against management for allowing employees to work without compensation. The grievance is not against the employee.

Postal managers are the "employer" as defined by the Fair Labor Standards Act. As such, they are responsible for keeping accurate records of hours worked. When managers complete and certify the information on the time sheet (4240), they should be verifying that all the hours that have been worked are recorded accurately on that document before they certify it to be correct. Although carriers should be accurately recording all hours worked, the ultimate responsibility to ensure that all hours worked are properly recorded rests with the employer.

To assist local stewards attempting to stop the practice of working off the clock, the following scenarios will be used as the basis for sample grievances:

1. A carrier was allowed to report early without recording the correct time on the 4240.

2. A carrier was allowed to deliver parcels on his or her way home after having signed out for the day.

3. A carrier came into the office on a holiday to case mail and no time was recorded for the work performed.

4. A carrier came into the office on Sunday to case mail and no time was recorded for the work performed.

The following pages contain four sample grievances filed against management for allowing carriers to work off the clock. These grievances are not intended to represent all of the facts that a steward might have to present in order to have a grievance sustained. These samples, however, should serve as models for what should be included in similar grievances.

UNITED STATES POSTAL SERVICE

USPS-NRLCA Joint Step 1 Grievance Form

1a. Grievant's Name (Last, first, middle initial) Class Action	1b. Grievant's SSN N/A
1c. Grievant's Title, Designation Code, and Route No. Local Steward, Susan Doe	1d. Telephone No. (include area code) (123) 555-4567
1e. Grievant's Mailing Address 2020 Main Street, Anytown VA 01010-1234	

2a. Post Office Anytown VA	2b. Branch/Station N/A	2c. Telephone No. (include area code) (123) 555-4567
3a. Date of Incident August 11, 2002	3b. Date of Step 1 Discussion with (Filing date) August 16, 2002	3c. Was Grievance Timely? (Explain) Yes

4. Issue (Complaint)

Did management violate the contract when they allowed regular carriers to work on Sunday? In addition, did a violation occur when management allowed regular carriers to work without recording their actual work hours on the 4240's?

5. Contract Provisions (Articles at issue)

EL-902: Art.8.1; 9.2.A.1; 34.1. M-38: Sec. 332.34. PO-603: Sec. 152.71; 211; 472. FLSA of 1938 as revised.

6. Full, Detailed Statement of Undisputed Facts (Attachments, as necessary)

1. There were regular carriers that worked on Sunday, August 11, 2002.
2. There were no entries on the 4240 to reflect the hours worked by those regular carriers.
3. The regular carriers were not compensated for the actual time worked on Sunday, August 11, 2002.

7. Management's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

8. Management Contentions

9. Union's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

Management was fully aware and condoned the practice of regular carriers working on Sunday. In addition, management allowed the carriers to work without recording their actual hours on the 4240.

10. Union Contentions

Allowing or requiring carriers to work on Sunday is a blatant violation of the EL-902. All hours that a carrier works, regardless of when they are worked, should be recorded on the 4240 and compensated. The Fair Labor Standards Act of 1938, as revised, further defines "employ" to mean "to suffer or permit to work". Therefore, whether knowing or not, the employer should be held responsible for all hours worked.

11. Remedy Sought by the Union

Management will ensure that all hours worked are recorded. Management will cease the practice of allowing or requiring regular carriers to work on Sunday. Management will compensate the carriers for all hours actually worked.

12a. Disposition (Check one) ☐ Settled ☐ Denied ☐ Withdrawn ☐ Sustained ☐ Other (Specify)	12b. Date of Disposition
13. Signature of Installation Head of Designee and Telephone No.	14. Signature of Union Step 1 Official and Telephone No.

PS Form 8191, February 1996

UNITED STATES POSTAL SERVICE

USPS-NRLCA Joint Step 1 Grievance Form

1a. Grievant's Name (Last. first. middle initial) Class Action	1b. Grievant's SSN N/A
1c. Grievant's Title, Designation Code, and Route No. Local Steward, Susan Doe	1d. Telephone No. (include area code) (123) 555-4567
1e. Grievant's Mailing Address 2020 Main Street, Anytown VA 01010-1234	

2a. Post Office Anytown VA	2b. Branch/Station N/A	2c. Telephone No. (include area code) (123) 555-4567
3a. Date of Incident August 15, 2002	3b. Date of Step 1 Discussion with (Filing date) August 16, 2002	3c. Was Grievance Timely? (Explain) Yes

4. Issue (Complaint)

Did management violate the contract when they allowed regular carriers to report before starting time without recording that time on the 4240?

5. Contract Provisions (Articles at issue)

EL-902: Art.8.2; 9.2.A.1; 34.1. M-38: Sec. 332.34. PO-603: Sec. 152.71; 211; 472. FLSA of 1938 as revised.

6. Full, Detailed Statement of Undisputed Facts (Attachments. as necessary)

1. There were regular carriers that worked on August 15, 2002, and began work prior to their scheduled reporting times.
2. The entries on the 4240's do not reflect that the carriers reported early.
3. The carriers were not compensated for the the additional time they worked on August 15, 2002.

7. Management's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

8. Management Contentions

9. Union's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

Management was fully aware and condoned the practice of regular carriers beginning work before their scheduled reporting time and not recording that time on the 4240.

10. Union Contentions

Allowing or requiring regular carriers to begin work before their scheduled reporting times without recording the actual hours worked is a blatant violation of the EL-902 and PO-603. All hours that a carrier works, regardless of when they are worked, should be recorded on the 4240 and compensated. The Fair Labor Standards Act of 1938, as revised, further defines "employ" to mean "to suffer or permit to work". Therefore, whether knowing or not, the employer should be held responsible for all hours worked.

11. Remedy Sought by the Union

Management will ensure that all hours worked are recorded. Management will cease the practice of allowing carriers to begin work before their scheduled reporting time without recording that time on the 4240. Management will compensate the carriers for all hours actually worked.

12a. Disposition (Check one) ☐ Settled ☐ Denied ☐ Withdrawn ☐ Sustained ☐ Other (Specify)	12b. Date of Disposition
13. Signature of Installation Head of Designee and Telephone No.	14. Signature of Union Step 1 Official and Telephone No.

PS Form 8191, February 1996

UNITED STATES POSTAL SERVICE

USPS-NRLCA Joint Step 1 Grievance Form

1a. Grievant's Name (Last, first, middle initial) Class Action	1b. Grievant's SSN N/A
1c. Grievant's Title, Designation Code, and Route No. Local Steward, Susan Doe	1d. Telephone No. (include area code) (123) 555-4567
1e. Grievant's Mailing Address 2020 Main Street, Anytown VA 01010-1234	

2a. Post Office Anytown VA	2b. Branch/Station N/A	2c. Telephone No. (include area code) (123) 555-4567
3a. Date of Incident September 2, 2002	3b. Date of Step 1 Discussion with (Filing date) September 3, 2002	3c. Was Grievance Timely? (Explain) Yes

4. Issue (Complaint)

Did management violate the contract when rural carriers were allowed to work on the holiday, September 2, 2002, and not record their actual work hours on the 4240?

5. Contract Provisions (Articles at issue)

EL-902: Art. 9.2.A.1; 11.2.D; 34.1. M-38: Sec. 332.34. PO-603: Sec. 152.71; 211; 472. FLSA of 1938 as revised.

6. Full, Detailed Statement of Undisputed Facts (Attachments, as necessary)

1. There were carriers that worked on a holiday, September 2, 2002.
2. The entries on the 4240's do not reflect that the carriers recorded any time for performing work duties on September 2, 2002.
3. The carriers were not compensated for the time they worked on September 2, 2002.

7. Management's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

8. Management Contentions

9. Union's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

Management was fully aware and condoned the practice of carriers working on a holiday without recording any work hours for duties performed.

10. Union Contentions

All hours that a carrier works, regardless of when they are worked, should be recorded on the 4240 and compensated. The Fair Labor Standards Act of 1938, as revised, further defines "employ" to mean "to suffer or permit to work". Therefore, whether knowing or not, the employer should be held responsible for all hours worked.

11. Remedy Sought by the Union

Management will ensure that all hours worked are recorded. Management will cease the practice of allowing carriers to perform work duties on a holiday. Management will compensate the carriers for all hours actually worked.

12a. Disposition (Check one) ☐ Settled ☐ Denied ☐ Withdrawn ☐ Sustained ☐ Other (Specify)	12b. Date of Disposition
13. Signature of Installation Head of Designee and Telephone No.	14. Signature of Union Step 1 Official and Telephone No.

PS Form 8191, February 1996

UNITED STATES POSTAL SERVICE

USPS-NRLCA Joint Step 1 Grievance Form

1a. Grievant's Name (Last, first, middle initial) Class Action		1b. Grievant's SSN N/A
1c. Grievant's Title, Designation Code, and Route No. Local Steward, Susan Doe		1d. Telephone No. (include area code) (123) 555-4567
1e. Grievant's Mailing Address 2020 Main Street, Anytown VA 01010-1234		
2a. Post Office Anytown VA	2b. Branch/Station N/A	2c. Telephone No. (include area code) (123) 555-4567
3a. Date of Incident September 4, 2002	3b. Date of Step 1 Discussion with (Filing date) September 6, 2002	3c. Was Grievance Timely? (Explain) Yes

4. Issue (Complaint)

Did management violate the contract when they allowed carriers to deliver parcels after they had signed out and not record their actual work hours on the 4240?

5. Contract Provisions (Articles at issue)

EL-902: Art.8.2; 9.2.A.1; 34.1. M-38: Sec. 332.34. PO-603: Sec. 152.71; 211; 472. FLSA of 1938 as revised.

6. Full, Detailed Statement of Undisputed Facts (Attachments, as necessary)

1. There were carriers that worked on September 4, 2002, signed out on the 4240 recording their ending time, and then delivered parcels on the way home.
2. The entries on the 4240's do not reflect that the carriers performed any duties after the ending time recorded.
3. The carriers were not compensated for the the additional time they worked on September 4, 2002.

7. Management's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

8. Management Contentions

9. Union's Full, Detailed Statement of Disputed Facts (Attachments, as necessary)

Management was fully aware and condoned the practice of carriers delivering parcels after they had signed out on the 4240 ending their duties for the day.

10. Union Contentions

Allowing or requiring carriers to perform work duties after their scheduled ending time is a blatant violation of the EL-902 and PO-603. All hours that a carrier works, regardless of when they are worked, should be recorded on the 4240 and compensated. The Fair Labor Standards Act of 1938, as revised, further defines "employ" to mean "to suffer or permit to work". Therefore, whether knowing or not, the employer should be held responsible for all hours worked.

11. Remedy Sought by the Union

Management will ensure that all hours worked are recorded. Management will cease the practice of allowing carriers to perform work duties after their scheduled ending time and not record that time on the 4240. Management will compensate the carriers for all hours actually worked.

12a. Disposition (Check one) ☐ Settled ☐ Denied ☐ Withdrawn ☐ Sustained ☐ Other (Specify)	12b. Date of Disposition
13. Signature of Installation Head of Designee and Telephone No.	14. Signature of Union Step 1 Official and Telephone No.

PS Form 8191, February 1996

LABOR RELATIONS

UNITED STATES
POSTAL SERVICE

July 26, 2002

MANAGERS, HUMAN RESOURCES (AREA)
MANAGERS, LABOR RELATIONS (AREA)
MANAGERS, DELIVERY PROGRAMS SUPPORT (AREA)
MANAGERS, HUMAN RESOURCES (DISTRICT)
MANAGERS, OPERATIONS PROGRAMS SUPPORT (DISTRICT)

SUBJECT: Rural Carriers Working Off-The-Clock

It is imperative that managers not allow rural carriers to work "off the clock" and that all work hours performed by rural carriers are accurately recorded on PS Form 4240, *Rural Carrier Trip Report.* The actual work hours for each rural carrier must be accurate in order to comply with the Fair Labor Standards Act (FLSA).

Rural carriers are generally compensated based on a guaranteed annual wage determined by the number of hours assigned to their route. Unlike other craft employees that are paid for the number of hours worked between clocking in and out each day, rural carriers are paid based on the evaluation of their assigned route. While a rural carrier's salary is generally not affected by the number of hours they actually work in a given day, it is important that rural carriers enter accurate times on Form 4240. FSLA requires a calculation of the total number of actual hours in a day, week and guarantee period to determine if the rural carrier is entitled to overtime compensation.

Handbook PO-603, *Rural Carrier Duties & Responsibilities*, Section 152.71 requires each rural carrier to record daily on Form 4240 in hours and minutes the exact time of reporting, leaving, returning to the office, and completion of duties. Managers are required to review the carrier's entries to ensure that the entries are complete and accurate.

If rural carriers are permitted to report for duty outside the normal schedule or are permitted to make a second trip on their route, it is important that management ensures that the rural carrier accurately records the time "on-the-clock" on Form 4240.

If there are any questions regarding this information please contact Bill Daigneault at (202) 268-5125.

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