

REVIEW COMMITTEE DECISION

Review Committee File No. 800
East Bay Division Grievance No. D.Gr/C 18-68-6

Subject of the Grievance

The grievance concerns regularly scheduled part-time clerks. The Statement of Facts furnishes the information that each works a regular five-day schedule, some a four-hour day part of the week, a five-hour day on other days, and some an eight-hour day on Saturday or Sunday. The Saturday and Sunday eight-hour schedules have an hour break for lunch.

The Statement of Facts further notes that some of the employees reported for work before their scheduled time and other situations where they worked beyond their scheduled quitting time.

Discussion

The crux of the problem is clear from the facts raised. Essentially, is such an employee entitled to overtime either when he reports before his scheduled hours of work or works beyond his scheduled quitting time, and if so, is he entitled to meals.

A clerical employee may be scheduled to work a basic workweek which may contain less than five scheduled work days, as well as work days of less than eight work hours each (Section 10.1). To this point, then, the schedule adopted by the Division conforms to the provisions of Title 10 of the Clerical Agreement. The discussion from here on concerns work performed in excess of their schedule on one or more of their scheduled work days.

Aside from the foregoing, the Agreement is silent with respect to when, if ever, such a part-time employee will be compensated at the overtime rate for work performed outside of his scheduled hours of work. The intent, however, is readily drawn from the other provisions of Title 10 as they apply to employees who regularly work an eight-hour day. On a scheduled work day, hours worked outside of the employee's eight-hour work schedule are compensated at the overtime rate of pay. For this purpose, then, "regular hours", as that term is used in Title 10 or Title 16, contemplates a scheduled eight-hour work period. The measuring point is the start of the work schedule.

To apply this to the case at hand, a regularly scheduled part-time clerk may be scheduled to start work at any hour of the day (Section 10.3) and is entitled to overtime pay for time worked before the start of his scheduled hours of work (Subsection 12.1(e)) and for time worked in excess of eight hours following his regularly scheduled starting time (Subsection 12.1(b)). Time worked for this latter purpose, would include time taken to eat a meal, provided at Company expense, during or on completion of such eight hours.

With respect to meals, a part-time employee generally will qualify for a meal at Company expense, if at all, in the manner set forth in Section 16.1,

although other provisions of Title 16 may be applicable in some instances. Where he is entitled to pay for the time taken to eat the meal, such pay will not be computed at the overtime rate unless the meal is required to be eaten before the start of his scheduled work hours or later when such time exceeds eight cumulative work hours.

Decision

The Division shall adjust the grievants' wages accordingly for the incident complained of in this grievance.

FOR UNION:

W. H. Burr
W. M. Fleming
J. J. Wilder

By

J. J. Wilder

Date November 14, 1968

FOR COMPANY:

T. J. Bianucci
C. R. Machen
L. V. Brown

By

L. V. Brown

Date 11-14-68