

104.10 - Missed meal allowance during regular work hours.



REVIEW COMMITTEE

JUL 18 1990

**CASE CLOSED
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REVIEW COMMITTEE DECISION

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Diablo Division Grievance No. D1-2799-88-52
Review Committee File No. 1697-90-2

Issue in the Grievance

This case concerns application of Section 104.10, to the normal lunch period on a regular workday.

Facts of the Case

Two Troublemembers worked emergency overtime from 4:30 a.m. to 7:00 a.m. then worked their regular schedule from 7:00 a.m. - 3:30 p.m. The Troublemembers stopped working and ate during their normal lunch period from 11:30 a.m. - noon.

The grievants received a \$7 meal payment and half-hour time allowance to cover their missed breakfast and a \$14 meal payment for lunch. The breakfast and lunch payments were in accord with the provisions of Section 104.3 and Example C3 of the Meals Clarification.

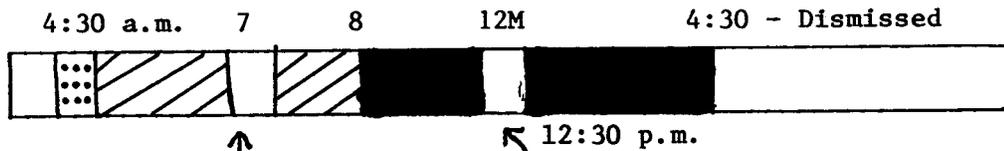
"104.3 Meals - Emergency Prior to Work Hours

"If Company requires an employee to perform emergency work on workdays starting two hours or more before regular work hours and such employee continues to work into regular work hours, he shall provide for one meal on the job and Company shall provide other meals as required by the duration of the work period, but if such emergency work starts less than two hours before regular work hours the usual meal arrangements shall prevail. If in any of the foregoing cases Company does not give an employee an opportunity to eat a breakfast and prepare a lunch before reporting for work, it shall provide such meals for him. The meals provided for in this Section shall be eaten at approximately the usual times therefor and the usual practice relating to lunch periods on workdays shall prevail."

"Meals Clarification - Example C3

"3. Emergency work which starts 2 hours or more before regular work hours and continues into regular work hours on work days is handled the same as prearranged work. However, if Company does not give the employee an opportunity to eat a breakfast or prepare a lunch before reporting for work, it shall provide such meals for him at approximately the usual times. In the

illustration of this example shown below, it is assumed the Company called the employee sometime before 4 a.m., allowed travel time from his living quarters and started work at 4:30 a.m. (Section 104.3).



"Breakfast provided by Company at approximately the usual breakfast time. Where the nature of the work is such that it cannot be stopped for breakfast, the employees should be allowed, when hungry, to eat the lunch they brought from home and Company will buy their lunch at the noon hour."

"Lunch provided by Company when opportunity to prepare same has not been allowed before reporting. Time not paid for eating such meal or meal provided by employee, as usual practice relating to lunch periods on work days shall prevail."

Discussion

The Union opined that in addition to the above, the grievants were entitled to one-half hour at the overtime rate for their lunch because Section 104.10(a) states in part:

"...If an employee who is entitled to a meal under the provisions of this Title prior to work, during or upon dismissal from work does not accept such meal the employee shall nevertheless be entitled to such time allowance of one-half hour for each meal missed and meal reimbursement as provided in (b) below."

Company responded that it was not intended that the foregoing time allowance would be applicable to the normal lunch period and that in any case, the employees did in fact, discontinue working and have a meal. Further, Company indicated that the Union's position would shift the decision making of whether to work during the normal lunch period, thus authorizing overtime, to the employees.

Union further indicated that its intelligence network indicated that in some locations Company was already paying the half-hour under similar circumstances. Company indicated that misinterpretation of the labor agreement does occur from time to time and when the parties can't agree on the interpretation, an arbitrator is solicited.

Both parties agreed that this scenario was not discussed during the 1983 or 1987 General Negotiations.

Decision

The Review Committee is in agreement that given this set of facts wherein the employees stopped working and consumed a meal during their normal lunch period, there is no entitlement to the one-half hour time allowance. The entitlement

under Subsection 104.10(a) is predicated on the employees not accepting a meal to which entitled. Therefore, there is no violation of the agreement in this case and it is closed without adjustment.

Such closure should be so noted by the Local Investigating Committee.

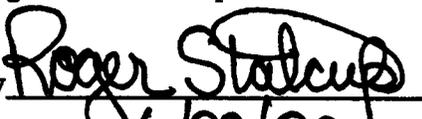
FOR COMPANY:

Rod J. Maslowski
Ron A. Morris
Robert C. Taylor
David J. Bergman

By 
Date 7-5-90

FOR UNION:

Pete S. Nickeson
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Arlis L. Watson
Roger W. Stalcup

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Date 6/28/90