

Arbitration Award 03/27/1935

Arbitration Under Award of National Longshoremen's Board

I. Question Presented for Decision

II. Decision and Award

ARBITRATION UNDER AWARD OF NATIONAL LONGSHOREMEN'S BOARD

M. C. SLOSS

March 27, 1935 Arbitrator for Pacific Coast Ports
on Basic Questions
1300, One Eleven Sutter
San Francisco, California

In the Matter of)

)
INTERPRETATION OF SECTION 2)
OF AWARD OF NATIONAL)
LONGSHOREMEN'S BOARD)

)
RELATING TO "STRAIGHT TIME")
AND "OVERTIME").

AWARD OF ARBITRATOR FOR PACIFIC COAST PORTS

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Arbitrator for Pacific Coast Ports

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INTERPRETATION OF SECTION 2)
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RELATING TO "STRAIGHT TIME")
AND "OVERTIME").

I. QUESTION PRESENTED FOR DECISION

A ruling has been asked by the I.L.A. on the following question:

"Shall employees, when having put in a six-hour day before 8 a.m. and are worked through to noon or afternoon, receive overtime for these hours worked, or a straight time rate of pay?"

The answer to the question turns on the interpretation of Section 2. That section reads as follows:

"Section 2. Six hours shall constitute a day's work. Thirty hours shall constitute a week's work, averaged over a period of four weeks. The first six hours worked between the hours of 8 A.M. and 5 P.M. shall be designated as straight time. All work in excess of six hours between the hours of 8 A.M. and 5 P.M., and all work during meal time and between 5 P.M. and 8 A.M. on week days and from 5 P.M. on Saturday to 8 A.M. on Monday, and all work on legal holidays, shall be designated as overtime. Meal time shall be any one hour between 11 A.M. and 1 P.M. When men are required to work more than five consecutive hours without an opportunity to eat, they shall be paid time and one-half of the straight or "overtime rate, as the case may be, for all the time worked in excess of five hours without a meal hour."

II. DECISION AND AWARD

The arbitrator decides as follows:

Section 2 defines "straight time" and "overtime". In effect it declares that certain times of work shall constitute "straight time" and that all other times shall be "overtime". "Straight time" is defined as the "first six hours worked between the hours of 8 A.M. and 5 P.M.", on days other than holidays and Sundays. (I omit reference to certain exceptions relating to meal times, etc., as they are not involved in the present question).

When a man, on a week day, works not over six hours between 8 A.M. and 5 P.M., he is, under the plain language of Section 2, working on "straight time". Any work beyond the six hours or any work before 8 A.M. or after 5 P.M. is "overtime". But the fact that the employee has earned payment at "overtime" rates for work outside of the "straight time" limits, does not convert his "straight time" service into "overtime". The Award does not, in my opinion, contemplate or provide for "overtime" rates of payment for work outside of or in addition to the "straight time" hours, and also for what, in and of itself, is clearly "straight time". If a man, after working six hours between 8 A.M. and 5 P.M., should be kept at work after 5 P.M., it could not be claimed that the first six hours would be anything but "straight time". I cannot see that any different rule can properly be applied where the work outside of "straight time" hours precedes, instead of follows, the "first six hours worked between the hours of 8 A.M. and 5 P.M.".

On the question put my conclusion and award is, therefore, that the employees should receive the "straight time" rate for the hours, up to six, worked between 8 A.M. and 5 P.M.

(Signed) M.C. SLOSS

M.C. SLOSS

Arbitrator for Pacific Coast Ports

DATED:

March 27, 1935