In the Matter of Arbitration   )
)

    ·Between   )

UNITED STATES POSTAL SERVICE   )
)

    And   )

AMERICAN POSTAL WORKERS UNION,)
AFL-CIO   )
)

WESTERN REGION - REGULAR PANEL
Grievance No. WlC-5B-C-22617
          C. Jensen

Hearing: November 28, 1984
          Main Post Office
          Los Angeles, CA.

Arbitrator: George E. Bowles
            File No. W575-51B

LOCAL ARBITRATION

C# 00328

APPEARANCES

EMPLOYER

J. Green
Labor Relations Assistant

UNION

Jose Antonio Nunez
Clerk Craft President

Carl B. Jensen
Grievant

Issue

Is the Grievant, Carl Jensen, entitled to be
paid 5.73 hours at the overtime premium for
October 29, 1983?

Essential Facts

The Grievant reported to work overtime on his off day and
after working 2.27 hours was ordered to clock out. It is the con-
tention of the Union that the Grievant was authorized to work over-
time on his off day, having just returned from annual leave. It
is further contended that the Grievant's supervisor for the day in
question knew of his status when he clocked in and still allowed
him to do so. Lastly, it is contended that another clerk was in
overtime status on the same day, October 29, 1983. The Employer
relies on the language of Article 8.8b of the National Agreement
stating, "When a fulltime employee is called in on the employee's
non-scheduled day, the employee will be guaranteed 8 hours work
or pay in lieu thereof". It is said that the supervisor did not
call the Grievant into work his non-scheduled day, and hence the
guarantee is not applicable.

Discussion

The case is a unique one, not of any controlling precedent
of general application. It is undisputed that the Grievant's
supervisor, Delbert Smith, at a stand-up meeting advised employees
under his supervision that they would be working overtime "until
further notice". The Grievant was on authorized annual leave the
four days, Monday through Friday preceding Saturday, October 29,
1983. He had not been advised that he was not to come in on Saturday,
October 29, 1984. Before the Arbitrator, the Employer offered no

no evidence that any representative of supervision attempted to reach the Grievant to tell him not to come in.

There is no question that the general rule is for no overtime without specific authorization, and that clerks were not getting overtime, generally. The Grievant was not sent home when he reported so some uncertainty among supervision is evident. Finally, he was given a direct order to end his tour with the statement that he would be paid for that time he had already spent on duty.

Hence, the case is one where the general policy is not to report for overtime after paid leave, but employees similarly situated to the Grievant, and the Grievant had been working overtime under the instruction of supervision to report "until further notice".

In the judgement of the Arbitrator, decisive is whether any other clerk working as an expediter worked overtime on October 29th, a Saturday, and was paid for the whole shift. The computer printout was requested, and clarified the facts. It was established by the printout without any doubt whatsoever that another clerk working as did the Grievant on Saturday, October 29th, as an expediter, who was junior in seniority to the Grievant, worked the full shift and was paid overtime. Under the facts of the case, the Grievant was entitled to explicit or specific notice that he was not to report in since there is no doubt that supervision had told him and other similarly situated clerks to report for overtime "until further notice". It was not established by Employer testimony that the Grievant could not have been reached had supervision assumed that responsibility. The Employer paid a junior employee in similar status doing the same work. The Grievance is granted.
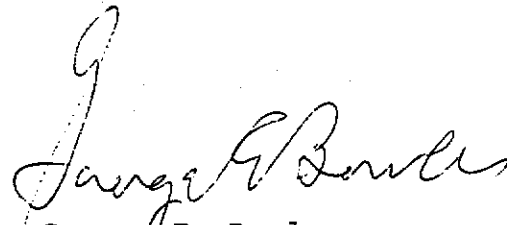
AWARD

Is the Grievant, Carl Jensen, entitled to be paid 5.73 hours at the overtime premium for October 29, 1983?

Answer

Yes

The Grievant shall be paid 5.73 hours at overtime premium for October 29, 1983.

Dated: December 1, 1984
Santa Barbara, CA.

George E. Bowles
Arbitrator