

Date: 20040507

File: 166-34-31821

Citation: 2004 PSSRB 36



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

PENELOPE ULMER

Grievor

and

CANADA CUSTOMS AND REVENUE AGENCY

Employer



EXPEDITED ADJUDICATION DECISION

Before: Yvon Tarte, Chairperson

For the Grievor: Cécile La Bissonnière, Public Service Alliance of Canada

For the Employer: Lesa Brown

(Note: The parties have agreed to deal with the grievance by way of expedited adjudication. The decision is final and binding on the parties and cannot constitute a precedent or be referred for judicial review to the Federal Court.)

Heard at Ottawa, Ontario,
April 30, 2004.

28.07(a) *an employee who is required to work on a first day of rest is entitled to compensation at time and one-half (1 1/2) for the first seven and one-half (7 1/2) hours and double (2) time thereafter;*

...

(c) *when an employee is required to report for work and reports on a day of rest, the employee shall be paid the greater of:*

(i) *compensation equivalent to three (3) hours' pay at the applicable overtime rate for each reporting to a maximum of eight (8) hours' compensation in an eight (8) hour period,*

or

(ii) *compensation at the applicable overtime rate.*

[3] This grievance deals with the difference contained in the collective agreement between scheduled and non-scheduled overtime. This issue was canvassed by previous adjudicators in *Graham et al.* (PSSRB File Nos. 166-2-2735 to 2737) and *Jefferies et al. and Canadian Food Inspection Agency* (2003 PSSRB 55).

[4] In both those cases, the expression "is required to report to work and reports" has been interpreted to refer only to situations where reporting to work is on short notice and not scheduled.

[5] This is clearly not the case here. Given that the grievor was scheduled to work overtime on January 13, 2001, she was entitled to overtime compensation pursuant to subclause 28.07(a) and not subclause 28.07(c).

[6] This grievance is therefore denied.

**Yvon Tarte,
Chairperson**

OTTAWA, May 7, 2004.