

AUG 25 1980

You have inquired, by letter to our Solicitor's Office, whether the compensation requirements of the Fair Labor Standards Act are applicable to the lunch periods of Postal Service letter carriers, if the carriers are responsible during those periods for the safekeeping of mail in their possession.

While the courts and the Department (in its Interpretative Bulletin, 29 CFR 785.19) have on occasion broadly stated that compensation is required for meal periods unless the employees are relieved of all duty, it is obvious from the cases under consideration that the duties in contemplation were those which restricted the employees in the free disposition of their lunch time. Thus the two examples given in the Bulletin are: "an office employee who is required to eat at his desk or a factory worker who is required to be at his machine." Similarly, in Stock & Sons, Inc. v. Thompson, 194 F.2d 493, 496 (C.A. 6, 1952), the court stressed that the employees were required to remain at their machines, and therefore "did not have a free lunch period during which they could serve their own interest and do as they pleased." And in Martin Nebraska Co. v. Calkin, 197 F.2d 981, 984 (C.A. 8, 1952), cert. denied 344 U.S. 866, the court noted that the firemen were required to eat in the plant and were therefore "not free to follow pursuits of a purely private nature."

The broad reading of the phrase "relieved of all duty" adopted in your letter would extend the requirement of compensation to 24 hours of the day in the case of outside workers who are required to take their employer's tools or materials home with them or who drive home in the company's vehicles, so as to have them available for going directly to the work site the following morning.

We are therefore of the opinion that compensation would be required for a letter carrier's mealtime only if the postal material in his possession were of such quantity or of such nature that the carrier was substantially impeded in the free disposition of the time for his own beneficial use. A carrier who is in fact free to so dispose of his time would not be entitled to compensation merely because he had in his possession postal items for whose security he remained responsible.

Sincerely,

Henry T. White, Jr.

Henry T. White, Jr.
Deputy Administrator