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U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington, D. C.

WAGE AND HOUR DIVISION FILES SUIT AGAINST SWIFT & COMPANY ON OVERTIME

A suit to enjoin Swift & Company from violating the overtime provisions of the Fair Labor Standards Act in their packing plant at the Union Stockyards, Chicago, Illinois, was filed today in the U. S. District Court for the Northern Division of Illinois, Eastern Division, at Chicago. It is the first suit of its kind instituted by the Wage and Hour Division of the U. S. Department of Labor, Washington, in the meat packing industry.

The complaint, filed by Alex Elson, regional attorney for the Division at Chicago, alleges that the company has employed in its Chicago plant more than 5,000 employees and a large number of these employees have been employed for workweeks longer than 42 hours without being paid time and one-half for their excess hours, as required by the Fair Labor Standards Act. A small percentage of these employees are engaged in handling, slaughtering and dressing livestock or poultry and are exempt from the overtime provisions of the Act during 14 workweeks within a year.

The Wage and Hour Division states, however, that most of the workers who were employed overtime hours, were employees not employed in the handling, slaughtering and dressing departments. Such employees include watchmen, elevator operators, garage mechanics, truck drivers, chauffeurs, boilermen and cleaners, many of the office and clerical staffs in the various departments, and employees engaged in the making of processed cheese, lard, soap, soap flakes, soap powder, cleanser, margarines, glue, resin, tallow, shortening, fertilizer, stock food, food for household animals, glycerin and numerous other products having no direct relationship whatsoever to the exempt operations.

The Division also contends that a considerable number of employees were worked overtime more than fourteen workweeks in a calendar year, without receiving time and a half and that the company thereby disregarded the overtime provisions of the Act, regardless of its claim for a fourteen workweek exemption for such employees.

The complaint further states that the alleged failure of Swift & Company to compensate these employees for excess hours at one and one-half times their regular pay ha s enabled the company to secure an unfair competitive advantage over firms producing, acquiring, handling and distributing similar goods in other sections of the country, and has enabled the company to undersell many competitors who maintain labor standards at and above the minima prescribed by the Fair Labor Standards Act.

The suit is the result of investigations and studies made by many inspectors and economists of the Division who were sent to various packing plants

Officials of the Institute of American Meat Packers, in letters sent to the Division, had contended that the 14-workweek exemption from the hours provision of the Act extended to all employees in any place of employment where their employer handles, slaughters or dresses livestock or poultry, regardless of the work done by particular employees. The Institute also claimed that the 14 weeks exemption from the hours provision need not be applied simultaneously to the entire plant but could be used in the case of different groups of employees at different times.

George A. McNulty, General Counsel of the Division, in a letter to the Institute, rejected these contentions. On the first contention, he said:

"After livestock has been slaughtered and dressed, the products normally move to coolers where they may be held for a few days. After the products have reached the coolers, the need for immediate operations is lessened. In view of the fact that the operations, which follow after the meat has reached the coolers, are performed a number of days after the live animals have been received in the yards, it seems doubtful that the purpose of Congress in adopting the section to facilitate the handling of seasonal agricultural commodities during peak seasons, would be served by extending the exemption to the employees performing work on the meat after it has reached the coolers."

On the second contention that the 14 weeks exemption from the hours provision of the Act need not be applied simultaneously to the entire plant but could be used in the case of different groups of employees at different times, Mr. McNulty informed the Institute of American Meat Packers:

"The language of the Act, we believe, supports our position that the exemption is one which extends to all employees at the same time and that separate 14-workweeks exemptions cannot be taken at different times for different sets of employees in the establishment. The statute states that the exemption shall be applicable for 14 workweeks 'to his employees' 'in any place of employment' and that seems to mean that when the exemption applies, it applies to all the employees at the same time. In other words, the Act does not provide consecutive exemptions for different sets of employees in the same establishment but provides only one exemption."

The Division's position on competitive advantage which would be had by the integrated meat packing establishments, if the Institute's contentions were sustained, was set forth by Mr. McNulty in the same letter, when he wrote:

"There are hundreds of establishments which do not slaughter and dress livestock but which perform operations upon products purchased from other meat packers. These operations, such as sausage making, are identical with those performed in an integrated meat packing establishment. When these operations are performed by a non-integrated establishment, the exemption cannot apply. However, if your position were to be sustained, the exemption would apply to such operations when conducted in an integrated meat packing establishment. We do not believe that Congress intended to grant a competitive advantage to the integrated establishment over the non-integrated establishment carrying on the same operations."

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