

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

ATLANTIC COAST LINE RAILROAD TO PAY MORE THAN \$260,000 RESTITUTION

The Atlantic Coast Line Railroad, against whom the Wage and Hour Division of the U. S. Department of Labor brought suit May 3, 1939, charging improper deductions from the wages of its maintenance-of-way employees, was ordered today to pay restitution to more than 3,500 of such employees, totaling in excess of \$260,000.

In Washington Colonel Philip B. Fleming, Wage and Hour Administrator, said that the restitution involved in this case was the largest in any yet investigated by the Division.

The order was signed by Judge Robert N. Pollard in the United States District Court at Richmond, Virginia. The railroad operates more than 5,000 miles of track in Virginia, North and South Carolina, Georgia, Florida and Alabama.

Under the terms of the Court's judgment the company within 120 days will compute the amount due each employee and submit it for the approval of the Wage and Hour Division. The Order provides that the Division may reject any or all of the computations, make its own computations, and that its determination shall be final.

In its complaint, the Wage and Hour Division charged the railroad company with arbitrarily deducting from the pay of its maintenance-of-way employees unreasonable sums for the rental of houses, "many of which were non-existent and others unfit for human habitation".

A separate stipulation, which was made a part of the judgment, prescribes the minimum standards of housing for which deductions may be made and prohibits the railroad company from compelling the employees to live in company-owned houses. It also directs the company to issue and distribute to its employees within 10 days a notice setting forth the minimum standards, rental to be charged, and the fact that they are not compelled to live in company houses.

As a direct result of the suit filed by the Wage and Hour Division, five maintenance-of-way employees brought suit against the railroad last June for (4606)

amounts improperly deducted from their wages, for an equal amount in liquidated damages, and for attorneys' fees. These employee suits were in accordance with Section 16(b) of the Act, which makes the employer liable for the additional sums when wages are illegally withheld.

Evidence at the trial of this employee suit disclosed that the railroad had deducted from the pay of these employees rental for houses that were non-existent, for water pumps that would not pump, for sanitary facilities where there was none, for special police protection against "hoodlums" which was not provided, for ice in the water provided them while at work, and for old cross-ties which ordinarily were given to anyone who would remove them from the railroad right-of-way.

The Wage and Hour Division and the U. S. Department of Justice intervened in the employee suit when the railroad company, in its defense, contested the constitutionality of the Act and the legality of Part 531 of the Regulations promulgated by the Administrator. This Regulation prescribes the method of computing deductions for the "reasonable cost of board, lodging, and other facilities customarily furnished by the employer to his employees", as provided for in the Act.

In a decision handed down February 17, 1940, Judge Isaac M. Meekins, of the U. S. District Court at Fayetteville, North Carolina, sustained every claim of these employees and rendered judgments in their favor, totaling \$1,079. A second employee suit tried before Judge William H. Barrett in U. S. District Court at Waycross, Georgia, also resulted in a judgment against the railroad company.

After Judge Meekins' decision was rendered, officials of the railroad company informed Colonel Fleming that they realized they were in violation of the Act and that they would not further contest the case pending against them in the Richmond Federal Court. They also promised that the carrier would make full restitution to its maintenance-of-way and structure employees.

Under terms of the judgment signed today, the railroad may make deductions from the pay of its employees for the following services:

1. Railroad unemployment insurance, social security, and any unemployment compensation taxes in any of the states in which the defendant operates its railroad system; and any additional such taxes which the railroad will be required to pay for the employees by virtue of the restitution provided for in today's judgment.
2. The actual amount expended by the railroad pursuant to garnishment or attachment of the wages of any such employee earned after October 24, 1938, when the Wage and Hour Law went into effect.
3. Membership dues in the railroad's relief department when the employee has become a member of it.
4. The amounts charged for rations purchased by such employee and paid for by payroll deductions.
5. The reasonable cost to the company of housing facilities voluntarily accepted and actually lived in by any such employee on October 23, 1938, and who continued to live therein.

The reasonable cost per month for such housing shall be as follows:

<u>Type of Dwelling</u>	<u>Number of Rooms</u>	<u>Monthly Rental for Entire Dwelling</u>
Houses and housing space in depot	1	\$2.00
	2	4.00
	3	5.00
	4	6.00
	5	7.50
	6	8.00
Single boxcar or one-half of double boxcar		2.00
Double boxcar		4.00

Where two or more such employees occupy one dwelling, each employee shall be required to pay his proportionate share of the rental charge for the entire dwelling.

The judgment further provides that no deduction shall be made for any room less than 8 feet, 6 inches in width and 9 feet, 6 inches in length, except that a kitchen may measure 7 feet, 6 inches in width by 9 feet in length.

Another provision in the judgment is that no deduction may be made for housing unless sanitary facilities and water supply are reasonably accessible and are kept in a reasonable state of repair. If such supplies are separated by a railroad mainline or actively used switching tracks, they shall not be deemed to be reasonably accessible.

No other deductions can be made without the consent of the Administrator of the Wage and Hour Division, the judgment declares.

Months of investigation and negotiation with attorneys and officials of the railroad preceded the filing of the decree. Roy C. Frank, Senior Attorney on the staff of General Counsel George A. McNulty of the Wage and Hour Division directed the investigation and negotiations on behalf of the Division.

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