

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

FILE MOTION TO SPEED HEARING IN RED CAP CASE

A motion to advance the hearing in the red cap case against the Cincinnati Union Terminal Company, Inc., was filed in the Sixth Circuit Court of Appeals at Cincinnati today, in behalf of Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor.

In a supporting affidavit stressing the public interest in the case, Colonel Fleming said in part:

"The Administrator has been receiving letters from members of Congress, public officials, representatives of labor organizations, industrialists and disinterested civic leaders, urging the Wage and Hour Division to alleviate the condition of those red caps who have suffered a reduction in earnings or dismissal for 'inefficiency' under the new plan inaugurated by the railroads."

A resolution was recently introduced in the Senate, directing Colonel Fleming to make a study of the red cap situation. This fact is also set forth in the affidavit.

"In the ordinary course of events, the case probably would not be reached for argument before April," said Arthur E. Reyman, Regional Attorney for the Division who filed the motion. "Because of the national importance of the issues involved the Division desires that the case be heard in the Circuit Court of Appeals as soon as possible."

The Division is appealing from a ruling by the Federal District Court on April 20, that an injunction restraining the Cincinnati Union Terminal Company, Inc., from violating the Fair Labor Standards Act could not be issued because of the abandonment of the old tipping and guarantee plan.

When the Act went into effect, the railroads imposed upon the red caps a so-called accounting and guarantee arrangement under which each red cap was required to report daily the amount of tips he collected, and the railroad purported to guarantee to pay him the additional sum necessary to equal the minimum wage required by the Act. After receiving complaints that the company was compelling the red caps to report receipts equal to the minimum wage, even though they received less, action was started for an injunction. After the injunction action was started, the company abandoned the accounting and guarantee arrangement and substituted a new plan under which the red caps were apparently recognized as employees to be paid a minimum wage, but required the red caps to collect from the traveling public on behalf of the company a charge of 10 cents a bag or parcel.

The District Court held that the discontinuance of the original plan made the action moot, and dismissed the complaint.

Colonel Fleming's affidavit said further:

"Since the inauguration of the ten cents plan, the red caps have filed numerous additional complaints as to discrimination, dismissals without regard for seniority (because they carry luggage less 'efficiently' in view of the minimum wage requirement) and other practices similar to those charged under the previous 'guarantee' arrangement."

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