

were present at the time the employee was terminated.
Reilly v. Kemp, Civil No. 89-885E, U.S. District Court for
the Western District of New York, September 3, 1991.

Sunday Premium For Leave Time

The U.S. Claims Court recently found the government liable for failing to include Sunday premium in leave payments when certain employees were scheduled for Sunday and took approved annual and sick leave instead. (Armitage v. U.S., 23 Claims Court 483, June 20, 1991) Though advertisements have solicited employees to become plaintiffs in similar suits against the government, it does not appear that postal employees will be successful in relying on this decision. The decision is inapplicable to postal employees since the United States Postal Service is not covered by either the Tucker Act or Back Pay Act -- the statutory basis for the suit. Furthermore, this case was decided on the basis of the specific wording of a statute providing for Sunday premium pay that does not apply to postal employees. Instead, postal employees have to rely on the contract as well as handbooks or manuals and assert a claim through the grievance procedure. Article 8, Section 6

requires eight full hours of additional compensation at the rate of 25% if any part of regularly scheduled work is within the period commencing at midnight Saturday and ending at midnight on Sunday. However, this language as well as language in the Employee and Labor Relations Manual (Section 434.3) and the F-21 Handbook (Section 242) and the F-22 (Section 242) supports the conclusion that in most circumstances, Sunday premium is computed only for employees who actually perform work on Sunday.

Stewards' Privilege As Employee Representatives

The Federal Labor Relations Authority this year held that communications between union stewards and government employees subject to discipline are not subject to disclosure on the ground that the consultations constitute protected activity. U.S. Department of the Treasury, Customs Service and National Treasury Employees Union, Federal Labor Relations Authority, No. 8-CA-80171, January 8, 1991. This decision follows the National Labor Relations Board's decision in Cook Paint & Varnish Company, 258 NLRB 1230; 108 LRRM 1150 (1981) which is applicable to postal employees. In that decision, the Board stated that