

QUESTIONS POSED BY MEMBERSHIP  
Relevant to New CBA

1. If an employee is terminated for cause by company A that company is not required to pay for the holiday. What if he is hired by company B within the two-week period prior to the holiday; is company B required to pay holiday even though he was terminated for cause? If not, how does company B know he is not to be paid? If he is to be paid by company B, it seems that company B is being penalized for hiring the employee.
2. Contract states **A** If an employee is hired and had previously been unemployed prior to the two weeks preceding the holiday, the Employer shall pay the employee for that holiday.<sup>@</sup> Therefore, if an employee is employed prior to the two weeks, does the Employer have to pay the employee?
3. Could we have the union put the date of last employment on the referral slip (and also to note if employee was fired within last two (2) weeks?).

Perhaps all three questions could be answered as follows:

An Employer is not affected by the Employee's status prior to the two-week period preceding the Holiday. If the Employer hires the Employee within the 14-day period preceding the Holiday, the Employer is obligated to pay the Holiday (assuming required hours are worked - and later, a license is maintained) unless another Employer was liable for the Holiday by virtue of laying off the employee during the 14-day period.

Logically the Union must advise the **A**new<sup>@</sup> Employer of a Holiday-pay obligation. The Chapter has pointed this out to Local 26 and a system for conveying this information will be devised promptly.

4. How should **A**prior notification<sup>@</sup> be handled?

Each firm is entitled to handle this as they desire. However, in order to protect management's long-term interests, and in providing continuity to employees who change employers - the Chapter recommends that contractors insist on **written** notification (of **all** absences) utilizing the sample company policy and accompanying form which were distributed on July 11, 2003.

5. Does this employer have the right to approve vacation time?
6. The contract states that the employee will not be penalized for time off for specific circumstances including, **A**scheduled time off.<sup>@</sup> Does the employer have the right to approve scheduled time off?

The answer to both questions would be - yes, as vacations and scheduled time off, by definition, suggests joint action by the Company and the employee. On the other hand, **A**prior notification<sup>@</sup> could supercede virtually any argument the Employer may make in regards to denying OT pay or Holiday pay.

7. The contract states, ~~A~~No fringes are paid on the holiday unless hours are worked.@ What about NEBF, NEIF (NECA Service Charge), Union dues, LMCC, and NLMCC?

No **local** fringes are to be paid on **any** hours not worked (with the exception of shift hours paid, i.e. seven hours worked for eight hours pay). Local fringes include LMCC (and NLMCC) [in this regard].

Union dues (a deduction), the 3% NEBF contribution and the 3/4 of 1% NECA Service Charge contribution **are** paid - as a percentage of gross earnings.

8. What ~~A~~Residential Employees@receive paid holidays?

Only Residential Wiremen - who work the required hours and who adhere to the licensing requirements after November 2004.

9. Are all Residential and Inside Employees bound by the 40-hour clause which is tied to daily overtime?

Yes (regardless of whether or not they are eligible for holiday pay).

10. Workman's Compensation Insurance only recognizes up to two (2) times base rate of pay for discounting gross payroll. How will the two and one half (2 **2**) rate of pay be handled when an employee works on a holiday?

Although this question falls outside of the labor agreement, the Chapter has been advised that carriers will, with contractor documentation, discount any overtime premiums, such that straight-time pay is used to calculate insurance premiums.

11. If a job is working 5-10's, 6-10's or 7-10's, is the regular workweek considered to be 4-10's or 5-8's?

For purposes of determining if the employee is entitled to daily overtime and/or Holiday pay, the employee need only work forty hours at straight time.

12. If a job is working 4-10's, Monday through Thursday, and the holiday falls on Friday, how does the Employee get paid?

Typically, the employee would work the 4-10's at straight time and be paid another 10 hours of straight time for the Holiday (assuming he did not work it). However, Management reserves the right to schedule work, so you could shut a job down for one or more days if you wish, as long as you pay the Holiday.

13. If employee is hired during the middle of the week, does the 40-hour rule apply in terms of daily OT?

This issue is being discussed among the labor-management representatives; an answer will be provided as soon as possible.

14. Do AA@Apprentices in ADay School@have to meet the 40-hour rule for overtime and/or Holidays?

Yes, but attending day school satisfies the Aprior notification@provision. If the apprentice scheduled for school fails to attend, the Chapter has already begun advising contractors of such absences so pay can be adjusted. [NOTE: if the apprentice subsequently proves he missed school for another of the specified reasons, i.e., death in the family, you will be notified that he is then due the holiday pay.]

15. Is the \$20.00 paid to an employee who does not receive a termination slip or is not paid upon being laid-off TAXABLE?

We see no justification for not taxing the \$20.00, although the contract does not address that issue.

You can expect an affected employee to want to Asee@the extra \$20.00 payment, so consider cutting a check separate from any remaining regular pay owed, and deducting prescribed taxes.