

ORDERED TO TAKE REST AT AN INTERMEDIATE TERMINAL

According to NKP BLE agreement the carrier does not have the right to force employees to tie up at an intermediate terminal to avoid the payment of overtime. It does however allow for payment if they do. Please read the following to understand how to be compensated.

ARTICLE 23 ENGINEERS' REST

Section 1

Under the laws limiting the hours on duty, engineers in road service will not be tied up, unless it is apparent that the trip cannot be completed within the lawful time, and not then until after the expiration of ten (10) hours on duty under the Federal Law or within two (2) hours of the time limit provided by State Laws, if State Laws govern.

Interpretation:

NOTE: The word "apparent," etc., in this section is interpreted as follows: "Where it is in evidence that the train has sufficient time under existing conditions to complete the trip within the lawful time."

EXAMPLE: If the company ties up an engineer between terminals for any reason under ten (10) hours continuous time will apply under the schedule for all time held up.

Engineers delayed on the road prior to the ten (10) hour period, on account of an accident, will not be tied up at point of delay to avoid the payment of overtime after ten (10) hours, but if held under such conditions will be paid continuous time from the time of reporting for duty at initial terminal to time of final release at final terminal.

NOTE: Where the engineer is tied up for rest if on duty ten (10) hours or more, and less than twelve (12) hours, eight (8) hours' rest period governs. If on duty twelve (12) hours, ten (10) hours' rest period governs and in either case engineer will be under pay immediately upon expiration of the rest period.

Section 2

If road engineers are tied up in a less number of hours than provided in the preceding section, they shall not be regarded as having been tied up under the law and their services shall be paid for as per Sections 2 and 3 of Article 4, Section 1 of Article 29, and Section 1 of Article 6.

Engineers that are started out on the road without having had their full rest, and because of this have been tied up for rest en route, such engineers will be paid continuous time from time of reporting at initial terminal to time of release at final terminal.

Section 3

When road engineers are tied up between terminals under the law, they shall again be considered on duty and under pay immediately upon the expiration of the minimum legal period off duty applicable to the crew, provided that the longest period of rest required by any member of the crew, either eight (8) or ten (10) hours, to be the period of rest for the entire crew. Road engineers will not be tied up at intermediate points to avoid payment of overtime.

So how am I to be compensated for being violated per my agreement? There are a couple of different scenarios at play. If you are in a 130 mile basic day pool, or were on overtime in a mileage pool you simply would claim the total amount of time you were taking rest. All claims are to be made at the overtime rate. Either 8 or 10 hours.

If you are in a mileage pool you add the total time on duty and the total rest time then subtract the mileage time component from the sum. The difference is the total time to be claimed. For example the TR Toledo-Chicago pool has a mileage time component of 252 miles = 15:30 minutes. This means that overtime begins after 15 hour 30 minutes on duty. So lets imagine you were on duty for 13 hours in the TR pool and were forced to tie up in Elkhart.

13 hours on duty + 8 hours of rest = 21 hours - 15:30 minutes time mileage component = 5:30 of overtime payment

If you were ordered to take rest in Bellevue you would claim the total amount of rest time. If you took 10 hours rest because your on duty time exceeded 12 hours then you claim 10 hours. Lets say you were on duty for 13:30 minutes then did not go back on duty for 10 hours. You would claim all 10 hours at the over time rate. The agreement states that you must be put back on duty at the expiration of your rest. Lets say you were on duty 10 hours and took 8 hours rest but did not go back on duty for 12 hours. You would submit a PE for 12 hours of overtime and explain you were not put back on duty at the expiration of your rest at no fault of your own.

Example: Engineer I.M. Tarred (EID 123321) TR-91 claiming 5 hours 30 mins. of overtime pay per NKP Agreement Article 23 Sections 1, 2, &3 on 01/01/08. I was on duty at 1:00 AM in Toledo on train 661B231 in the Toledo-Chicago pool. We made it to MP CD 415 and outlawed. Chief Dispatcher Peters told us on radio channel 1 (46-46) at 1:30 PM that when we get re crewed to go to the Elkhart Dorm and take rest at our intermediate terminal Elkhart (CD 422). We tied up at 2:00 PM on 01/01/08 in Elkhart. We went back on duty at 10:00 PM as per our agreement. Our overtime would have begun at 4:30 PM on 01/01/08. I should have received overtime from 4:30 PM to 10 PM, a total of 5 hours and 30 mins. Art. 23, Section 3 states that engineers will not be tied up at intermediate terminals to avoid payment of overtime.

Thank You,

I.M. Tarred