

ARBITRATOR'S OPINION AND AWARD

In the Matter of Arbitration Between:

May 10, 2017

SOUTHWEST AIRLINES COMPANY

and

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO
Local 555

Grievance: DEN-O-2001/16 (No Break Period)

Before

Elizabeth Neumeier, Arbitrator

Representing:

The Company: Erica L. Berencsi, Attorney, General Counsel Department
Southwest Airlines Co.

The Union: Abilio Villaverde, District 8 Representative
Transport Workers Union, Local 555

Statement of the Award: The grievance is sustained. The Company is directed to comply with Article Six, Section One, Paragraph I by making a reasonable attempt to schedule rest periods as near as possible to the midpoint of each half of an Employee's shift, in a manner that informs the employee of such rest periods. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

BACKGROUND

Southwest Airlines Company (Company or Southwest) and the Transport Workers Union Local 555 (Union) are parties to a collective bargaining agreement (CBA) effective February 19, 2016 through February 18, 2021, and continuing. In this case the Union protests that the Grievant was not given a 15-minute rest period during the second half of her scheduled shift on September 12, 2016, as is required by Article Six, Section One, Paragraph I.

The Grievant has worked for the Company for seven years as an Operations Agent at the Denver station (DEN). On September 12, 2016¹, she was scheduled to work 7:30 A.M. to 4:00 P.M.. The grievance, filed on September 13, states:

Employee Statement of Grievance: No 15 min rest period given on Monday, September 12, 2016 during the second half of my scheduled shift per article 6 para I.

Remedy or settlement Sought: 2 hours of double time.
[JX 2, pg. 9.]

After the Company denied the grievance, the System Board deadlocked on December 15, 2016. The case was submitted to the undersigned arbitrator for final decision.

The Union offered testimony from Union Representative A and the Grievant.

The Company offered testimony from Senior Manager of Labor Relations Bob Watkins and DEN Manager of the Command Center Mike Bath.

Representative A testified that the CBA requires the Company to make reasonable efforts to schedule rest periods as near as possible to the midpoint of each half of the employee's shift. That is also a requirement by the State of Colorado under regulations that apply to employees and employers covered by the Colorado Minimum Wage Order Number 32. (UX 1.) He further explained that management would frown on it if an employee took both 15 minute breaks during the first four hours of a shift, and then went home sick after taking the one half hour lunch break. The employee would not be getting the full eight hours of work done. Under Article Seven-A, overtime is computed on an actual minute basis, adjusted to the nearest 10th of an hour, with a minimum of three quarters of an hour overtime.

On cross examination, Representative A acknowledged that the CBA provides a contractual remedy of overtime for a missed lunch break. He said that, under Article Seven-A, if an employee works more than eight hours, as the Grievant did because she did not get a break in her second half of her shift, the overtime remedy is required. He could not give an example of an

¹All dates are 2016 except as otherwise noted.

Ops Agent taking both breaks before lunch, then leaving sick, but was aware of a transfer driver and a T-point ramp agent doing so.

Referring to the OTIS screen showing flights she worked on September 12, the Grievant testified that her first flight arrived at 0750. (UX 2.) She said that she probably received her morning break at around 0915. On that day her lunch was scheduled for after her 11:00 flight #1501 departed, but she said that lunch breaks are not always scheduled. The OTIS screen shows that, after her lunch break, the Grievant was assigned to the following flights:

Flight #1469 arrival 1200, ETA 1207, Flight #1470 departure 1240, ETD 1249
Flight #583 arrival 1320, ETA 1309, Flight #583 departure 1410, ETD 1408
Flight #292 arrival 1435, ETA 1417, Flight #292 departure 1520, ETD 1550

The Grievant testified that Ops Agents are allowed five minutes to “close out” a flight after it departs, and they are to be at the gate 15 minutes before a flight arrives. Flight #1470 departed gate C25 at 12:49 and was closed out at 12:54. Her next flight, #583, arrived at gate 31 at 13:09, and departed at 14:08. She then walked to gate 33, where flight #292 arrived at 14:17. Flight 292 then departed at 15:50, five minutes before her shift was scheduled to end. The Grievant said she did not receive her 15-minute break in the last four hours of her shift.

The Grievant further testified that, when Ops Agents arrive, they are not scheduled for all flights for the day. Referring to OTIS screens from August 29, December 12, November 22, and January 13, 2017, she said Ops Agents are only scheduled for one or two flights at a time by their direct supervisors. (UX 3, 4, 5 and 6.) They do not know when they are going to get their 15-minute breaks or lunch.

On cross-examination the Grievant said that at DEN, more often than not, Ops Agents are not assigned to stay on one gate for the day. Some days they do, but other days they “bounce” from gate to gate depending on operations. Typically, they are at numerous gates. The morning of September 12 all of her flights were at gate 25, with the last arriving at 1207. She took her morning break between flights, during a “natural” break, without her Supervisor telling her to. She said there was not an aircraft at gate 25 between 0900 and 0940, and she took her 15-minute break during that time. She denied, however, that she was on break that entire time, and said she probably assisted the gate next to hers with wheelchairs. There are four gates in that area. When asked whether, prior to the arbitration hearing, she told anyone that she did that, the Grievant stated that is “our job function.” She did not tell the Company she was working, because they knew she was on the clock and working. She said Ops Agents never “break” the whole time between flights and their job responsibility is to assist other gates, if needed, with wheelchairs, answering customers’ questions, paperwork, or whatever is required to get flights out. If everyone has downtime and nobody needs assistance, there may be extra downtime. Her Supervisor would know if she was sitting in the break room, but would not know what gate she was helping out at. She recalled that on September 12, after her 0855 departure, she walked to the break room. She said her break could have been 18 minutes, but denied that it could have

been 30 minutes because of when she left her gate after the flight pushed and the four to five minutes it takes to walk to the break room. The Grievant said that, even if she had had a 40-minute break in the morning, she would still have filed a grievance over not receiving a break in the second half of her shift.

The Grievant also acknowledged, on cross examination, that she has never been a supervisor and has never been responsible for scheduling. She did know that the supervisors tally how many flights each Ops Agent has each day and the dispatch supervisor who assigns the flights sits in the command center. She emphasized that they can't schedule without putting it in OTIS, which is when the Ops Agents know what flights they are scheduled to work. On September 12, her last flight was scheduled to depart at 1520, but left at 1550. She was mandated to stay until 16:47. Between 15:55 and 16:47 she had to close out the paperwork – including the customer service portion, fuel slips, law-enforcement forms, and other forms they need to document to completely close out paperwork for the FAA – for her three flights after her 1200 arrival because there had been no time to do that. In the five minutes after a flight departs, she closed out only her portion, the OTIS part, i.e., she put in the pilot's time and weight and balance. She could not recall what else she did that day, but may have helped with wheelchairs or gone to the break room, which is where the Ops Agents do the paperwork. She had not had time to get a drink or go to the restroom, and is sure she did both at the end of her mandatory overtime, but did not know whether that took at least 15 minutes. The Grievant agreed that she could have called a supervisor to ask for an emergency break, but said she did not do so because she did not have an emergency.

Senior Manager of Labor Relations Watkins, referring to an OTIS printout for September 12, explained that the "arrival time" is the time a flight is scheduled to arrive and the "ETA" is the estimated time of arrival during the day, and then, at the end of the day, reflects the actual arrival time. Similarly, for outbound flights, the departure time reflects the scheduled departure time and the "ETD" reflects the estimated time of departure and then the actual departure time. (CX 1.) OTIS shows that the Grievant was assigned flights at gates C-25, C-31 and C-33 on September 12. From the OTIS printout he prepared the following summary:

As Scheduled

Time	Event
730	Scheduled Start Time
750	2967/514 Arrives
855	2967/514 Departs
0900-0940	Break 40 Minutes
955	518/1501 Arrives
1100	518/1501 Departs

1105-1135	Lunch	30 Minutes
1135-1145	Break	10 Minutes
1200	1469/1470 Arrives	
1240	1469/1470 Departs	
1245-1305	Break	20 Minutes
1320	583/583 Arrives	
1410	583/583 Departs	
1415-1420	Break	5 Minutes
1435	292/292 Arrives	
1550	292/292 Departs	
1600	Off	105 Minutes

[CX 2.]

Manager Watkins explained that, to find that she received a break of 40 minutes between 0900 and 0940, he calculated about five minutes from the departure of flight 514 for her to finish up paperwork, and then saw that she was assigned no more work until 0940, because employees are to be at the gate 15 minutes prior to arrival. He agreed it is possible she was doing other things, but said he can only go off of what was on the schedule. Prior to the arbitration hearing, no one in Labor Relations or management was given any information that she was actually working during that time period. The Grievant had no further breaks before lunch, reflected on the OTIS printout as “BBB/EAT” – which is typically how Ops Agents are told when to have lunch. He said that OTIS does not indicate 15-minute breaks and they have never told people when to take those breaks. On this day, the Grievant was not scheduled for further work until the scheduled arrival of flight #1469 at 1200, giving her an additional 10 minutes of break time because she was not required to be at the gate until 1145. He explained that she was scheduled for an additional 20 minutes of break time between the scheduled departure of flight #1470 at 1240 and the scheduled arrival of flight #583 at 1320. Then, she would have had an opportunity for a five-minute break after the scheduled departure of flight #583 at 1410 and the scheduled arrival of flight #292 at 1435.

Manager Watkins also prepared an exhibit based upon the actual arrival and departure times for the flights the Grievant worked on September 12. That exhibit shows the following:

As Happened

Time	Event	
730	Scheduled Start Time	
750	2967/514 Arrives	On Time
857	2967/514 Departs	2 Minutes Late
0902-0940	Break	38 Minutes
955	518/1501 Arrives	On Time
1104	518/1501 Departs	4 Minutes Late
1109-1139	Lunch	30 Minutes
1139-1152	Break	13 Minutes
1207	1469/1470 Arrives	7 Minutes Late
1249	1469/1470 Departs	9 Minutes Late
1254-1254	Break	0 Minutes
1309	583/583 Arrives	11 Minutes Early
1408	583/583 Departs	2 Minutes Early
1413-1413	Break	0 Minutes
1417	292/292 Arrives	22 Minutes Early
1550	292/292 Departs	30 Minutes Late
1555-1645	Break	50 Minutes
1645	Off	131 Minutes

[CX 3.]

Manager Watkins testified that the 38-minute break the Grievant received in the morning could count as two, 15-minute breaks, and the Company has given people breaks back to back before. Nothing in the CBA prohibits breaks from being combined or from being taken in the first half of a shift. The CBA requires the Company to make a reasonable attempt to schedule them as close to the midpoint of the first half of the shift and as close to the midpoint of the second half of the shift as possible, taking the operation into account. There is a further restriction that breaks cannot be scheduled in the first hour or last hour of the shift. During the time flight #292 was on the ground the Grievant could have called a supervisor if she needed a break. As to the paperwork required, Manager Watkins said that the Grievant had time to get it

done when flight #583 was on the ground for nearly one hour and flight #292 was on the ground for 1.5 hours. It was just a matter that she could not turn it in because she was at the gate.

Manager Watkins testified that language in the CBA last changed in the 1990 CBA. The 1984-89 CBA stated:

I. All full-time employees shall be granted a 15-minute rest period during the first half of their shift and a 15-minute rest period during the second half of their shift without loss of pay. Consistent with the requirements of the service, the Company shall make a reasonable effort to schedule rest periods as near as possible to the midpoint of each half of an employee's shift. However, in no event shall rest periods be scheduled to commence in the first hour of an employee's shift or in the last hour of the employee's shift. [CX 4.]

The 1990-1994 CBA stated:

I. All employees shall be granted a fifteen (15) minute rest period for each four (4) hours of a scheduled work shift. Consistent with the requirements of the service, the Company shall make a reasonable effort to schedule rest periods as near as possible to the midpoint of each half of an employee's shift. However, in no event shall rest periods be scheduled to commence in the first hour of an employee's shift or in the last hour of an employee's shift. [CX 5.]

Watkins said that when the first sentence was removed from the 1984-89 CBA, i.e., the "shall" requirement with respect to when the rest periods are scheduled, it meant there was no longer an obligation that the breaks have to be scheduled that way. The remaining language required that the Company make a reasonable effort to schedule rest periods that way, and prohibited scheduling breaks in the first and last hour.

Manager Watkins further testified that, unlike Ops Agents who have natural breaks in their schedule, at T-point, bags are coming down all day and breaks for Ramp Agents need to be scheduled. He would sometimes schedule Ramp Agents for one hour off, counting that as their two, 15-minute breaks and their 30-minute meal break. He never heard of the Union raising an issue over that scheduling approach.

On cross examination, Manager Watkins explained that if an employee is required to stay two or three minutes past their scheduled end time, they have the right to stay for 45 minutes, whether they have work to do or not. If the Company has no work, that's break time. If the employee is done with assigned work, they can punch out and get paid for the actual time, or, at their option, stay for the .7.

DEN Command Center Manager Bath oversees the day-to-day operations and previously worked as an Ops Supervisor in Dallas. He said that Ops Agents are assigned a 30-minute lunch break, and will have two, 15-minute breaks during the natural flight activity of the day. Also, there most likely will be more opportunity for downtime during which they are not required to help. He has not heard of an agent being disciplined for failing to seek out and help coworkers during the downtime. However, if a supervisor gave them specific instructions to help on a flight that was not assigned to them, they could be disciplined for insubordination if they refused. Bath said that he has observed Ops Agents taking extra breaks during their downtime, going to the break room or socializing with fellow agents, above and below the wing. Ops Agents are assigned an average of five flights a day, and there is a natural gate rest of about 35 minutes between each flight. Ops Agents learn their assignments when they check in with their Supervisor, report to the Dispatch Supervisor in the command center, or, if they get a radio, they are given a general gate assignment where they are most likely to be throughout the day. However, they also do a dynamic rotation, which means a supervisor may move them via radio, telephone and the computer used to assign flights.

On cross examination, Manager Bath said that they schedule breaks every day but, if the flight activity results in back to back flights and an Ops Agent is stuck at a gate, we expect them to reach out if they need extra time to perform body functions or whatever may arise. The CBA requires 60 minutes of break time: two 15-minute breaks and one 30-minute meal break, but it does not prohibit working four hours without rest.

RELEVANT PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT

ARTICLE SIX SECTION ONE HOURS OF SERVICE

* * *

B. Meal Period. A thirty (30) minute meal period, shall be scheduled during the fourth, fifth or sixth hour. All meal periods must be completed before the end of the sixth hour. Should an Employee not be scheduled a meal period during the fourth, fifth, or sixth hour, he will be paid time and one half their hourly rate of pay for the thirty (30) minute meal period and will receive an uninterrupted meal period. Should an Employee not be permitted a meal period at all, he will then be paid .5 hours overtime and two (2) hours straight time pay in addition to their regular pay. Eight (8) hours, inclusive of a thirty (30) minute meal period, shall constitute a day's work for those Employees whose regular shift begins between the hours of 6:00 P.M. and 4:00 A.M.

* * *

I. Rest Periods. All Employees shall be granted a fifteen (15) minute rest period for each four (4) hours of a scheduled work shift. Consistent with the requirements of the service, the Company shall make a reasonable effort to schedule rest periods as near as possible to the midpoint of each half of an Employee’s shift; however, in no event shall rest periods be scheduled to commence in the first hour of an Employee’s shift or in the last hour of an Employee’s shift.

**ARTICLE SEVEN
OVERTIME**

* * *

A. Computation. For pay purposes, the overtime rate of time and one-half shall be computed on an actual minute basis adjusted to the nearest tenth (1/10) of an hour, with a minimum of three quarters (3/4) hour overtime. If an Employee elects to waive the requirements for the minimum three quarters (3/4) hour overtime, he may do so if approval is obtained from the supervisor. For the purpose of this Article only, it is expressly understood and agreed that a part-time Employee’s seniority shall be the date he was placed in the classification in which he is working.

**ARTICLE TWENTY
GRIEVANCE/SYSTEM BOARD/ARBITRATION
DISCHARGE and DISCIPLINE**

**SECTION ONE
PROCEDURES**

L. Interpretation/Application of Agreement.

* * *

15. Arbitration/Function and Jurisdiction. The functions and jurisdiction of the Arbitrator shall be as fixed and limited by this Agreement. He shall have no power to change, add to, or delete its terms. He shall have jurisdiction only to determine issues involving the interpretation or application of this Agreement, and any matter coming before the Arbitrator which is not within his jurisdiction shall be returned to the parties without decision or

recommendation. In the event any disciplinary action taken by the Company is made the subject of proceedings, the Arbitrator's authority shall, in addition to the limitations set forth herein, be limited to the determination of the question of whether the Employee(s) involved were disciplined for just cause. If the Arbitrator finds that the penalty assessed by the Company was arbitrary or unreasonable, he may modify or remove that penalty.

CONTENTIONS OF THE PARTIES

The Union's Contentions

The Union contends that the language of Article Six states that each fifteen-minute rest period is to be scheduled during the midpoint of each half of an employee's shift because it is inconceivable to make an employee work long hours without a break. The intention of the language has never changed despite slight changes in wording. Senior Labor Manager Watkins stated "we need to make a reasonable attempt to schedule them as close to the midpoint of the first half of the shift and as close to the midpoint of the second half of the shift as possible, taking into account the operation." He further stated that if no break was scheduled or actually occurring and the Ops Agent needed a break, they can call their supervisor and ask for someone to watch the gate, but they could not just leave.

The Union further contends that the DEN Operations Department does not schedule flights, breaks or lunches appropriately. The essence of the problem is rooted in the decision of management not to provide a schedule of flights for the Ops Agents. It can be no defense to place the responsibility on the shoulders of the Ops Agents, who are not being supplied with the necessary information to plan their breaks. The CBA clearly places the burden on the Company.

The Union notes that the Grievant did not get her schedule at the beginning of her shift. She got ready for her first flight and had to monitor the computer to see where she was going next and when. Her supervisors should have been scheduling the breaks, just as they were the flights. Since the Company loves to tout their rights to manage and direct the workforce, the Union encourages them to understand that this language leaves to them the responsibility of directing Ops Agents on when to break, as much as it does when to work, without exceeding other contractual provisions.

The Union also refers to Colorado's state law that requires every employer to authorize and permit rest periods, which, in so far as practical shall be in the middle of each four-hour work period. If it was not intended for the employee to have a rest period during each half, there would be no language in either the State Law or CBA for them to be scheduled during the midpoint of each half. The Company's suggestion that an employee receiving a thirty minute break during their second hour is receiving both fifteen-minute breaks violates the CBA and State law.

With respect to remedy, the Union contends that by working through her second fifteen-minute break she is due the minimum overtime of 3/4 hour. Under the overtime provisions, any time worked outside the hours scheduled minus breaks is considered mandatory overtime and must be paid as such. If an employee does not get their scheduled thirty-minute lunch, they are paid overtime and this is no different. Until the Company negotiates language to include the penalty of not receiving a fifteen-minute break, it must be paid as 3/4 hour. If there was no penalty negotiated for not receiving a thirty-minute lunch, the overtime provisions would apply in those cases also.

The Union requests that the grievance be awarded, that the Company be required to follow the CBA and allow the Grievant to take her fifteen-minute breaks during each half of her shift, and that she be paid the .7 overtime for this clear violation.

The Company's Contentions

The Company contends that the Union has offered a "fairness" argument, i.e., that it was unfair for this worker to have four hours consecutive work without a fifteen-minute break. In this case, however, it should be the Company that gets the sympathy. The contractual language is also on the Company's side.

The Company contends that the language requires a reasonable effort be made to schedule rest periods as near as possible to the midpoint of each half of the employee's shift. There is no question that the Company did not schedule breaks for the Grievant. The Ops Agent schedule each day is developed by the supervisor, with the thirty-minute lunch break actually written into OTIS. Everyone testified that the fifteen-minute breaks are offered to the Ops Agent during the natural breaks in the schedule. It is their responsibility to follow OTIS to see when their flights land or leave.

The Company notes that the Ops Agents have to be at the gate fifteen minutes before the arrival and stay for about five minutes after the departure to finish some paperwork. It is not known what will actually happen during the day, so the Company goes by the schedule at the beginning of the day, based on what is expected. However, the Company does not even have to actually schedule that way. They just have to make a reasonable effort. Company Exhibit 2 shows that the Grievant had multiple breaks scheduled on September 12. In fact, during her eight ½ hour shift, she was scheduled to be on break for a total of 105 minutes, not including the additional forty-five minutes she remained after her regular shift. Although the 105 minutes were scheduled, the Grievant did not actually receive that amount of break time because of changes in operations, specifically the twenty-minute break between 1245 and 1305.

The Company contends that the grievance does not complain that she did not get two, 15-minute breaks. The Company agrees that the Grievant did not have a fifteen-minute break between the time her lunch ended at approximately 1135 and her last departure at 1550. If the Company had known that she, allegedly, did not get her second break between 0900 and 0940,

they would have given her a second break. She could have, very simply, during the fifty minutes a plane was on the ground and she had little to do, asked her supervisor if she could take a break. Instead, she finished her flight at 1550 and, under the CBA, had the option of staying an additional forty-five minutes at double time. She took advantage of that and that is when she took her break, because she only had 15 minutes of work to do. And, she was not scheduled to take a break during the last hour of her shift, which is prohibited by the CBA.

The Company concludes that, including the forty-five minutes of double time, the Grievant had 131 minutes of break time. Therefore, fairness argument works in the Company's favor. No remedy is delineated in the CBA for the Company's failure to properly schedule a fifteen-minute break. The meal period language provides for a remedy but no such language exists regarding the inappropriate failure to properly schedule the fifteen-minute rest periods. If the Company is found to be in violation, the remedy should be to make reasonable efforts to schedule the rest periods, with no economic remedy whatsoever. The Union's effort to get back into the CBA language that was in the 1989 contract, but removed, should be rejected.

For the above reasons, the Company requests that the grievance be denied.

ISSUE

Did the Company violate the CBA by not allowing Agent B her 15-minute break and what is the appropriate remedy?

FINDINGS

In this contract interpretation case, the Union has the burden of proving that the Company violated the CBA. The provision at issue is found in Article Six, Section One, Paragraph I, quoted above.

The essence of the Union's case is that the Company failed to comply with the requirement that it "make a reasonable effort to schedule rest periods as near as possible to the midpoint of each half of an Employee's shift" when it failed to schedule such rest periods and left it to the Grievant to schedule her own rest period or call a supervisor for an emergency break. Company witness Watkins testified that OTIS does not indicate fifteen-minute breaks and Operations Agents, unlike Ramp Agents working at T-point, are not told when to take their fifteen-minute breaks. In its closing argument, the Company acknowledged that there is "no question that the company did not schedule breaks for Agent B." (Closing Argument, Tr. 3, lines 11-12.) Thus, the crux of this dispute concerns whether requirement in Paragraph I that the Company to make "a reasonable effort to schedule" requires the Company to affirmatively place such breaks in the employee's schedule so that the employee knows when they will occur.

The un rebutted evidence establishes that, as a matter of course, that is not being currently done at the DEN station. When the Grievant reported for work on September 12, all she knew

about her schedule for that day was where she would be working for the first few flights prior to her lunch break. Her Supervisor may have had a plan for assigning her additional flights, with downtime between some flights. Such a plan for an Ops Agent to work flights cannot properly be treated as a “schedule” within the meaning of Article Six if that information was not shared with the employee. Certainly, in the airline industry the flight schedule is critical. Within the meaning of the CBA, however, the use of the term “schedule” refers to the schedule of the employee.

The Company has offered no explanation for why Ops Agents do not have their fifteen-minute breaks scheduled in OTIS, as is done with their meal breaks, or why no “reasonable effort” is made to do so. The fact that there are “natural” occurring breaks in the flight schedule indicates that this should be a relatively simple task, and does not provide a contractually-justified reason for not doing so. For these reasons, the Union has established that the Company violated Article Six, Section One, Paragraph I when it did not make a reasonable effort to schedule the Grievant’s second, fifteen-minute break as near as possible to the midpoint of the second half of her shift.

As a remedy, the Union seeks to have the fifteen minutes the Grievant should have been on break in the second half of her shift treated as overtime worked, and to have her paid the minimum amount of overtime of 3/4 hour. The Company objects to such a remedy. First, the Company notes that the Grievant, in fact, received a total of eighty-three minutes of break time during her regular shift, followed by additional break time at the overtime rate. Specifically, the Company points to the thirty-eight minutes between 0862 and 0940 that occurred after flight #2967/514 departed and flight #518/1501 arrived. Second, the Company, arguing fairness, notes that the Grievant was paid at double time for forty-five minutes after her regular shift ended, during which she received no additional flight assignments and performed paperwork for, at most, fifteen minutes.

On this record, the Grievant’s testimony that she did not take an extended break in the first half of her shift was unrebutted. The Company’s testimony on this point consisted solely of generalizations that Ops Agents are not required to help one another out when they have downtime at their assigned gate. However, under these specific facts of this case, where the Grievant was mandatorily to stay after her scheduled shift for a few minutes, and elected, at her option, to stay for the full, contractually authorized three quarters of an hour at double time, an award of an additional 3/4 hour at overtime rates would be in the nature of punitive damages. The Union has pointed to no language in the CBA that would authorize such a remedy under these circumstances.

For the above reasons, this grievance will be sustained. The Company is directed to comply with Article Six, Section One, Paragraph I by making a reasonable attempt to schedule rest periods as near as possible to the midpoint of each half of an Employee’s shift, in a manner that informs the employee of such rest periods. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

AWARD

The grievance is sustained. The Company is directed to comply with Article Six, Section One, Paragraph I by making a reasonable attempt to schedule rest periods as near as possible to the midpoint of each half of an Employee's shift, in a manner that informs the employee of such rest periods. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

A handwritten signature in cursive script, reading "Elizabeth Neumeier", is written over a horizontal line.

Elizabeth Neumeier, Arbitrator
May 10, 2017