
29 C.F.R. § 783.33

Employment “as a seaman” depends on the work actually performed.

Whether an employee is “employed as a seaman”, within the meaning of the Act, depends upon the character of the work he actually performs and not on what it is called or the place where it is performed (*Walling v. Haden*, 153 F. 2d 196; *Cuascut v. Standard Dredging Corp.*, 94 F. Supp. 197). Merely because one works aboard a vessel (*Helena Glendale Ferry Co. v. Walling*, 132 F. 2d 616; *Walling v. Bay State Dredging & Contracting Co.*, 149 F. 2d 346), or may be articulated as a seaman (see *Walling v. Haden*, supra), or performs some maritime duties (*Walling v. Bay State Dredging & Contracting Co.*, 149 F. 2d 346; *Anderson v. Manhattan Lighterage Corp.*, 148 F. 2d 971) one is not employed as a seaman within the meaning of the Act unless one's services are rendered primarily as an aid in the operation of the vessel as a means of transportation, as for example services performed substantially as an aid to the vessel in navigation. For this reason it would appear that employees making repairs to vessels between navigation seasons would not be “employed as” seamen during such a period. (See *Desper v. Starved Rock Ferry Co.*, 342 U.S. 187; but see *Walling v. Keansburg Steamboat Co.*, 162 F. 2d 405 in which the seaman exemption was allowed in the case of an article employee provided he also worked in the ensuing navigation period but not in the case of unarticled employees who only worked during the lay-up period.) For the same and other reasons, stevedores and longshoremen are not employed as seamen. (*Knudson v. Lee & Simmons, Inc.*, 163 F. 2d 95.) Stevedores or roust-abouts traveling aboard a vessel from port to port whose principal duties require them to load and unload the vessel in port would not be employed as seamen even though during the voyage they may perform from time to time certain services of the same type as those rendered by other employees who would be regarded as seamen under the Act.

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