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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-200287

DATE: August 17, 1981

MATTER OF: Naval Weapons Support Center - Overtime -
Travel Interrupted by Blizzard

DIGEST: Employees' claims for overtime for time spent stranded in Chicago due to a blizzard and for traveling home on Saturday are not payable. The additional time is not hours of work within the meaning of 5 U.S.C. § 5542. 50 Comp. Gen. 519 (1971) distinguished.

A decision has been requested by the Naval Sea Systems Command on the claims of 30 civilian employees of the Naval Weapons Support Center at Crane, Indiana. These are [claims for overtime while in travel status] for the period their travel was interrupted by a blizzard. The agency requests clarification of two decisions. In 50 Comp. Gen. 519 (1971) we allowed some overtime for waiting time attributable in part to inclement weather. In James C. Holman, B-191045, July 13, 1978, however, we denied overtime for additional traveltime caused by a blizzard.

For the following reasons, we conclude that the overtime claims may not be allowed.

The agency advises that a typical claim is as follows. The employee is exempt from coverage under the Fair Labor Standards Act (FLSA) and was returning to Indianapolis, Indiana, from a temporary duty assignment in San Francisco. The employee departed San Francisco at 6 a.m. Thursday and arrived in Chicago at 9 a.m. He was scheduled to depart from Chicago at 3 p.m. Thursday and arrive in Indianapolis at 4 p.m. However, the Chicago airport was closed at noon due to a blizzard. Accordingly, the employee was held over in Chicago until Saturday morning. He took the earliest available flight out and arrived in Indianapolis at 9 a.m. Saturday. The employee's regular tour of duty is 7:30 a.m. to 4 p.m., Monday through Friday.

The employee claims 7-1/2 hours overtime from 4 p.m. Thursday to 7:30 a.m. Friday, less 8 hours for eating and sleeping; 7-1/2 hours overtime from 4 p.m. Friday to 7:30 a.m. Saturday, less 8 hours for eating and sleeping; and 1-1/2 hours overtime from 7:30 a.m. to 9 a.m. on Saturday.

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For employees exempt from FLSA, entitlement to overtime compensation and to compensation while in travel status is governed by section 5542 of title 5, United States Code. Subsection (a) in general authorizes overtime compensation for hours of work officially ordered or approved in excess of 8 hours per day and 40 hours per week. Subsection (b)(2) provides as follows:

"time spent in a travel status away from the official duty station of an employee is not hours of employment unless-

"(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

"(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively."

Except for the waiting time caused by the blizzard, it is not contended and there is no evidence either (1) that the return travel upon which this claim is predicated met any of the conditions in subsection (b)(2)(B), or (2) that any officially ordered or approved work was performed during the claimed overtime hours.

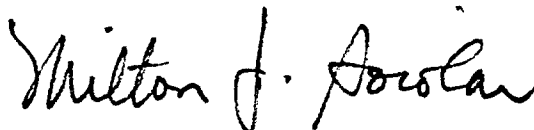
The mere restriction of an employee to a place where he is neither performing work nor holding himself in readiness to perform work does not entitle an employee to overtime compensation under 5 U.S.C. § 5542. John B. Currier, 59 Comp. Gen. 95 (1979); Robert J. Fitzgerald, B-195653, February 13, 1980; Paul E. Laughlin, 57 Comp. Gen. 496 (1978). If the time is available for an employee's personal use, it generally is not compensable as hours of work under 5 U.S.C. § 5542.

In 50 Comp. Gen. 519, 523, in contrast to this case and the cases cited above, the employee was performing travel presumed to have resulted from an event which was administratively uncontrollable and therefore compensable under 5 U.S.C. § 5542(b)(2)(B)(iv). He was compensated for 3 hours normal waiting time because that time was viewed as not available for his personal use. The employee in that case spent 5-1/2 hours waiting for his flight because his standby reservations were not honored due to heavy holiday traffic. When his flight finally did depart at 8:15 p.m., it was forced to return at 11:45 p.m. due to heavy fog. The employee then waited almost another 3-1/2 hours for a bus chartered by the airport. The bus departed at 3:10 a.m. and arrived at the employee's destination at 10:30 a.m. on Thursday, Thanksgiving Day. The employee's total waiting time was nearly 9 hours, of which more than 7 hours were beyond his regular tour of duty. Since the employee's traveltime outside his regular tour of duty was compensable under 5 U.S.C. § 5542(b)(2)(B)(iv), it was held that 3 of the more than 7 hours could be considered "usual" waiting time which interrupts travel. Therefore, we held that the 3 hours were compensable traveltime. See FPM Supplement 990-2, Book 550, Subchapter S1-3b(2)(c)(iii); Nathaniel R. Ragsdale, 57 Comp. Gen. 43, 48 (1977).

In the case at hand, the employee's traveltime outside his regular duty hours was not compensable under 5 U.S.C. § 5542(b)(2)(B). He arrived in Chicago at 9 a.m. on Thursday and received compensation at regular rates from 7:30 a.m. to 4 p.m. on both Thursday and Friday since this was his regular tour of duty. Therefore, even assuming the need to wait for connections or make alternate travel arrangements would have required 3 hours, he has already been compensated at regular rates for a period far greater than 3 hours. Moreover, unlike 50 Comp. Gen. 519, 523, nothing in this record suggests that the time spent waiting in Chicago was not available for the employee's personal use. In short, the facts and circumstances in 50 Comp. Gen. 519, 523, are not comparable to the facts in this case, and the allowance of 3 hours of overtime

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in that case provides no authority for the payment of the overtime claimed in this case. James C. Holman, supra.

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States