

088805

PLI

10,156



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548



OFFICE OF GENERAL COUNSEL

IN REPLY
REFER TO: B-194603 (VBG)

MAY 14 1979

Mr. Frank I. Smith
834 Wisteria Place, E.
Santa Ana, California 92701

Do not make available to public reading

Dear Mr. Smith:

I refer to your letter in which you ask several questions concerning pay for nightwork under 5 U.S.C. § 5545(a) (1976).

You state that your regular shift is 1600 to 0030 Monday through Friday and you have been asked to work 2 hours past your regular shift from 0030 to 0230. You wish to know if you would be entitled to night pay for those 2 extra hours.

A Comptroller General decision in response to your inquiry would not be appropriate at this time. Nevertheless, we offer the following information for your assistance.

In order that you be compensated night pay your nightwork must be regularly scheduled work. See 5 U.S.C. § 5545(a) (1976). Generally, for nightwork to constitute regularly scheduled work, it must be duly authorized in advance and must be scheduled to recur on successive days or after specified intervals. B-174388, March 22, 1973; 42 Comp. Gen. 326 (1962); and 40 *id.* 397 (1961). Therefore, if an employee is ordered to perform nightwork on a one-time basis, such work would not normally qualify for night-pay purposes. However, there is an exception if an employee performs occasional overtime work within a "regularly scheduled tour of duty" falling between the hours of 6 p.m. and 6 a.m. For example, where the 24-hour day is divided into three regularly scheduled tours of duty and an employee, who normally works the day shift, performs occasional work between 6 p.m. and 6 a.m., that employee is entitled to night differential for the occasional overtime between those hours. 34 Comp. Gen. 621 (1955) and B-174388, February 28, 1972. An employee would be entitled to night pay on Saturdays when his work falls between 6 p.m. and 6 a.m. and when his work is considered regularly scheduled work under the above-cited decisions. 5 U.S.C. § 5545(a) (1976).

*Comptroller's
Comp. Agency*

*Letter
505283*

B-194603

Since I do not know all of the facts in your case I cannot tell you now whether you are entitled to night pay or not. I suggest that you consider the foregoing information. If you believe you are entitled to night pay you may file a claim with your agency. If you are dissatisfied with the result, you may file a claim with our Claims Division at the above address and the General Accounting Office will settle your claim.

I have enclosed copies of the cited decisions.

Sincerely yours,



V. Bruce Goddard
Attorney-Adviser

Enclosures