

**DECISION**

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

**FILE:** B-214806**DATE:** July 23, 1984**MATTER OF:** Staff Sergeant Elmer Hall Jr.**DIGEST:**

An Army Reserve member injured in an automobile accident while returning to his permanent station after attending inactive duty training at a training site away from his unit headquarters under travel orders is not entitled to the medical benefits of 10 U.S.C. § 3721(2), since he had completed the training duty involved and he was not under military control employed in inactive duty training at the time of the accident.

An Army Reserve member ordered to duty at a training site away from his unit headquarters for a period of inactive duty training was injured in an automobile accident while traveling between the training site and his headquarters upon conclusion of the training. We are asked whether in the circumstances described the member was performing inactive duty training while traveling in order to qualify for medical benefits under 10 U.S.C. § 3721(2).<sup>1</sup> Since the member had completed and been released from his training assignment, he was not under military control engaged in inactive duty training at the time the injury occurred and not entitled to the benefits of 10 U.S.C. § 3721(2).

Staff Sergeant Elmer Hall, Jr., a United States Army Reserve member assigned to a Reserve unit headquarters in Hazard, Kentucky, was ordered to perform inactive duty training in Avon (near Lexington), Kentucky, on March 19 and March 20, 1983, by Orders 03-298, Headquarters, 100th Division (Training), Louisville, Kentucky, dated March 7, 1983. His orders directed that he proceed on temporary duty from Hazard, report to the training site not later than 9 a.m. March 19, and return to Hazard at the

<sup>1</sup> The Assistant Secretary of the Army (Financial Management) submitted this request for a decision and it has been assigned control number SS-A-1435 by the Department of Defense Military Pay and Allowance Committee.

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conclusion of training. He was authorized per diem during the training period and travel allowances for round trip between Hazard and Avon.

Sergeant Hall was injured in an automobile accident near Van Cleve, Kentucky, on the direct route between Avon and Hazard at approximately 5 p.m., March 20, 1983, while returning from training. The location of the accident was such that he could have been traveling to his headquarters or to his home.

The Assistant Secretary notes that under 10 U.S.C. § 3721(2) an Army Reserve member is entitled to medical benefits when he is called or ordered to perform inactive duty training and is disabled in line of duty "while so employed" and questions whether Sergeant Hall was performing inactive duty training while traveling in order to qualify for medical benefits. The submission cites our decision 43 Comp. Gen. 413 (1963) which states that situations of this nature where a question exists whether injuries suffered by Reserve members were incurred while employed in performing inactive duty training should be forwarded to this Office for direct settlement rather than following the decision of the Court of Claims in Meister v. United States, 162 Ct. Cl. 667 (1963).

The Court of Claims in Meister ruled that a naval reservist who sustained an injury just outside the Reserve center immediately prior to beginning inactive duty training was "within the scope of his duties" and, therefore, entitled to coverage under 10 U.S.C. § 6148 which applies to Naval reservists. However, the court stated that they were not attempting to lay down a rule of general application in that case. We recognized the limited application of the court's decision in Meister and determined that it should not be used as precedent for favorable administrative action in any similar case. Our rule remained that when a reservist is ordered to inactive duty training, the periods of training for which they are entitled to medical and continuation pay benefits are limited to periods while they are "so employed," that is, beginning with the time the person is first mustered or assembled and ending with dismissal from the particular drill or other training duty involved. See 38 Comp. Gen. 841, 843 (1959); 43 Comp. Gen. 412, 415 (1962); and Master Sergeant Edward O. King, B-189360, December 30, 1977. We have not allowed claims where the injury occurred after completion of dismissal at

the end of inactive duty training. Electronics Technician Michael S. Beam, 63 Comp. Gen. 66 (1983).

We have also held that under the predecessor to 10 U.S.C. § 3721, Reserve officers traveling under competent orders to and from inactive duty training for the purpose of inspecting and supervising training of subordinate elements of their unit located at such distance from the parent headquarters as to require the expenditure from appropriated funds for transportation, subsistence, and quarters, who were injured or killed while traveling did not suffer such injury or accident while employed in an inactive duty training status. We stated that our answer would be the same whether the member proceeded from his headquarters to the point where the inactive duty training was performed or proceeded directly from his home to the point where such duty was performed. 32 Comp. Gen. 554 (1953).

In one case where a National Guard member was in attendance at an inactive duty training assembly and was instructed by his first sergeant to take the most direct route to his home, obtain his clothing records and return to the Armory, he had an accident and was injured returning to the Armory. In that case, the member had been mustered in at the beginning of the drill, he was traveling pursuant to his sergeant's instructions and not because of any omission on his part, and the drill had not been completed. We held there that the member was under military control and was engaged in inactive duty training at the time of the accident, thus being entitled to the benefits of being disabled in line of duty from injury while so employed. See 54 Comp. Gen. 165 (1974). Compare 52 Comp. Gen. 28 (1972), a somewhat similar case where the opposite conclusion was reached because of a crucial difference in the facts.

In the present case, Sergeant Hall's inactive duty training consisted of attending a drill sergeant update course away from his usual duty site. From the record we have been furnished it seems clear that prior to his accident he had completed the training duty and had been released from military control at the training site. The provision in his travel orders directing return travel to his permanent station upon completion of the temporary duty was necessary in order to compute travel allowances and not because any duty was to be performed there. See Joint Travel Regulations, Volume 1, para. M6001

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(Change No. 358, December 1, 1982). The period that he was employed in inactive duty training was that time he was engaged in meeting the requirements of the drill sergeant update course. When he was dismissed from that particular training duty, his inactive duty training ended and he was no longer "so employed" within the meaning of 10 U.S.C. § 3721.

This situation differs from the circumstances in 54 Comp. Gen. 165 where the training duty had not been completed and the member was traveling at the discretion and under the control of the officer in charge of the training at the time he was injured. Sergeant Hall had completed his training duty and was returning to his headquarters or his home. Since the injury occurred after the completion of the training and away from the training site, we must conclude that the injury was not incurred while Sergeant Hall was performing inactive duty training.

Accordingly, Sergeant Hall is not entitled to the benefits provided under 10 U.S.C. § 3721(2).<sup>2</sup>

*Milton J. Fowler*  
for Comptroller General  
of the United States

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<sup>2</sup> We note that 10 U.S.C. § 1074a and 37 U.S.C. § 204(j), added by section 1012 of the Department of Defense Authorization Act, 1984, Pub. Law 98-94, Sept. 24, 1983, 97 Stat. 664-665, now authorize the services to provide specified benefits when a member is injured while traveling directly to or from the place at which he performs inactive duty training. These new provisions are not applicable in this case because they only apply to injuries incurred or aggravated on or after the date of enactment of Pub. Law 98-94, that is, September 24, 1983.

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