

Fitzgerald



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Walter D. Oxford - Overtime Compensation for
File: "Call Back" Work
B-220330
Date: September 11, 1986

DIGEST

A civilian wage grade employee had finished his regular shift, but had not yet entered his car to return home, when he was directed to return to work for an emergency. Since this was a continuation of his regular shift and not a return to his place of employment, the employee is only entitled to overtime compensation for the time he actually worked and not to 2 hours "callback" overtime compensation.

DECISION

This responds to a November 5, 1985, joint request from Mr. Patrick J. Meade, Vice President, Tidewater Virginia Federal Employees Metal Trades Council, and Capt. L. F. Norton, Commanding Officer, Naval Air Station, Oceana.^{1/} The parties request a decision whether the "callback" provisions of 5 C.F.R. § 532.503(c) and Federal Personnel Manual (FPM) Supplement 532-1 entitle Mr. Walter D. Oxford to 2 hours of overtime compensation when he was required to return to work for 23 minutes after his regular shift had ended. We hold that, because Mr. Oxford's return to work was in the nature of a continuation of his regular shift rather than a return to his place of employment, he may only receive overtime compensation for the time he actually worked.

BACKGROUND

This case comes to us as a joint request for decision pursuant to the labor-management relations procedures set forth in 4 C.F.R. Part 22 (1985).

^{1/} Reference 12000, Ser OID/2917.

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Mr. Oxford, a heavy mobile equipment mechanic, was employed as a wage grade (prevailing rate) employee by the U. S. Navy Department at Naval Air Station Oceana, Virginia Beach, Virginia. On April 16, 1985, he completed his regular shift, clocked out, and left the building. While he was unlocking his car to go home, he was directed by his supervisor to return to work because of an emergency situation. Mr. Oxford's time card shows that he punched out originally at 4 p.m., punched backed in at 4:02 p.m., and punched out after the emergency at 4:25 p.m.

A grievance was filed by the union on behalf of the employee. The Commanding Officer denied the grievance on July 11, 1985. He found that Mr. Oxford should only be paid overtime for the time he actually spent working since the overtime was a continuation of his regular shift. The Metal Trades Council contends that Mr. Oxford should be paid for 2 hours of overtime under the callback provision of FPM Supp. 532-1 since he had completed his shift, punched out, and was called back to work.^{2/}

OPINION

Generally, employees can only receive overtime compensation for the time that they actually perform work. One specific exception to this rule for wage grade employees is set forth in 5 C.F.R. § 532.503(c) (1985) as follows:

"(c) Callback overtime work. Irregular or occasional overtime work performed by an employee on a day when work was not regularly scheduled for the employee or for which the employee has been required to return to the place of employment shall be considered to be at least two hours in duration for the purpose of overtime pay, regardless of whether the employee performs work for two hours."

This regulatory provision for prevailing rate employees parallels the statutory provision for General Schedule employees in 5 U.S.C. § 5542(b)(1). See B-177313, November 8, 1972. The callback provision is intended to compensate employees for the inconvenience of having to

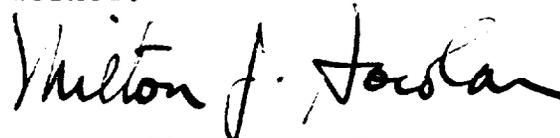
^{2/} The collective bargaining agreement between the union and the Naval Air Station also provides for 2 hours callback pay (Art. IX, Sec. 10).

prepare for work, leave their homes, and travel to their places of employment. See 65 Comp. Gen. 49 (1985); 40 Comp. Gen. 379 (1960). We have also held that employees who perform unscheduled overtime that merges with their regular schedules are not entitled to the minimum 2-hour pay since it does not involve travel to the worksite induced solely by a recall. 65 Comp. Gen. 49, supra, at 51.

Even if overtime work is unscheduled, it does not entitle an employee to extra callback compensation if the work is performed in continuation of the regularly scheduled shift. 45 Comp. Gen. 53 (1965). Punching a time clock is neither material nor controlling in the determination of whether an employee has been called back to his place of employment. 40 Comp. Gen. 379, supra, at 382 (Question 1b).

In the present case, the argument that Mr. Oxford should receive extra overtime compensation is that he had completed his regular shift and punched out. He did not, however, experience the inconvenience of having to prepare for work, of leaving his home, or of traveling to his place of employment. Mr. Oxford did not leave the parking lot and did not even get into his car. Therefore, we conclude that Mr. Oxford's overtime was in the nature of a continuation of his regular shift which does not entitle him to callback pay. We do not believe that the 2 minute break satisfies the regulatory requirement of 5 C.F.R. § 532.503(c) that "the employee has been required to return to the place of employment * * *."

For the reasons discussed above, Mr. Oxford may not receive overtime compensation in excess of that for which he actually worked.

for 
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of the United States