



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: James Blackburn, Jr. - Overtime Compensation -
Traveltime To and From Duty Station
File: B-221228
Date: September 18, 1987

DIGEST

Supervisory employee of the Federal Aviation Administration is not entitled to overtime under 5 U.S.C. § 5542(b)(2)(B) (1982) for time spent traveling outside of his regularly scheduled administrative workweek since (1) the travel was within the employee's official duty station and (2) the travel must be away from the official duty station to be compensable. Moreover, the employee's tasks to pickup and deliver mail and supplies while traveling to and from his duty site was not compensable traveltime since, as a supervisor, it was not his primary function. The employee's claim for reimbursement for mileage for local travel is also denied since payment is discretionary with the agency, and the record indicates it was never authorized or approved.

DECISION

Mr. James Blackburn, Jr., a retired employee of the Federal Aviation Administration (FAA), requests reconsideration of our Claims Group's settlement of February 28, 1985 (Z-2854747). The settlement denied Mr. Blackburn's request for reimbursement for overtime compensation while in a travel status. For the reasons that follow, we uphold our Claims Group's determination.

BACKGROUND

Mr. Blackburn was employed as an FAA supervisor at a remote mountain radar facility near Lynch, Kentucky. The site is about 15 miles from Big Stone Gap, Virginia, over route 160, but the last portion of the trip to the radar site is over difficult terrain. The employees stationed at the site drove their privately-owned vehicles (POVs) 8 months out of the year, and during the winter months they were furnished a

government-owned vehicle or given a ride in one to the radar site. The pickup point for the government-owned vehicles was in Big Stone Gap.

Mr. Blackburn's regular duty hours were from 8 a.m. to 4:30 p.m., Monday through Friday. Since there was no mail delivery to the radar site, Mr. Blackburn would leave his home by POV each day and proceed to the post office in Big Stone Gap arriving there at 7 a.m., in order to pick up and deliver mail and supplies to the radar facility. Mr. Blackburn was furnished a government vehicle to drive from Big Stone Gap to the radar facility. All of these duties were performed outside of Mr. Blackburn's regular duty hours.

Mr. Blackburn was a supervisor and, therefore, he was exempt from the provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201-219 (1982). He found out after he was retired that the employees he supervised, who were nonexempt from the FLSA provisions, were paid overtime to travel to and from their duty site.^{1/} Mr. Blackburn feels that he should also be reimbursed, and he has filed a claim for 1-1/2 hours overtime for 1,226 round trips between Big Stone Gap and the radar site that he alleges he made to pick up and deliver mail and supplies from January 3, 1978, to September 30, 1983.^{2/} Mr. Blackburn also states that he picked up personnel in a government vehicle at Big Stone Gap during the winter periods in question. Finally, Mr. Blackburn has also claimed reimbursement for mileage for the times he used his POV.

The FAA denied Mr. Blackburn's claim for overtime based on our decision William L. Lamb, 61 Comp. Gen. 626 (1982). We held in that decision that the transporting of supplies or equipment which is incidental to the purpose of travel is not compensable as overtime work. Since Mr. Blackburn was a supervisor the FAA concluded that the purpose of his travel was to reach his destination for performance of his duties, rather than to transport mail, forms, and supplies.

^{1/} We do not know the rationale behind the payment of FLSA overtime since that decision is not part of the record.

^{2/} Mr. Blackburn's claim was received in this Office on May 18, 1984; therefore, that portion of his claim prior to May 18, 1978, is barred by our 6-year statute of limitations. 31 U.S.C. § 3702(b)(1) (1982).

Our Claims Group denied his claim for basically the same reason.

The FAA has provided additional reasons to disallow Mr. Blackburn's claim. The FAA says that Mr. Blackburn could have picked up the mail during regular duty hours or sent a subordinate to do so, and the agency argues it was not necessary to go by the post office on his trip home since any mail receptacle would suffice. The FAA also says that Mr. Blackburn is not entitled to overtime since his travel was performed within his official duty station and not away from it, citing to B-210697, September 29, 1983. We held in that decision that employees of the Social Security Administration were not entitled to overtime for time spent traveling in agency-hired buses between offices in New York City because all of the offices were within the employees' official duty station. The FAA says that it may have erred in allowing FLSA overtime to other FAA employees in light of this decision.

Mr. Blackburn states that it was standard operating procedure for supervisors to pick up and drop off the mail at the radar facility and that he continued to do so when he first reported to duty there. He says that he was sometimes alone at the radar site and that he would have to have left the site unmanned if he went back to Big Stone Gap to pick up the mail, which would entail an additional round trip. He also refers to the fact that other employees received overtime as support for his contention that he should receive it, and he says that the current practice for the employees stationed at Lynch is to include the traveltime between Big Stone Gap and Lynch as part of their regular workday.

OPINION

Under 5 U.S.C. § 5542(b)(2)(B) (1982), traveltime outside of the regularly scheduled administrative workweek is compensable only if it involves travel away from the employee's official duty station. 55 Comp. Gen. 1009 (1976); Vernon H. Moss, III, B-188955, November 23, 1977. See also Abrahams v. United States, 1 Cl. Ct. 305, 309, footnote 2 (1982).

The Office of Personnel Management has defined an employee's official duty station for the purposes of determining when travel begins for overtime purposes in Federal Personnel Manual Supp. No. 990-2, Book 550, S1-3 as follows:

"By official duty station we mean the employee's designated post of duty, the limits of which will be the corporate limits of the city or town in which the employee is stationed, but if not stationed in an incorporated city or town, the official duty station is the reservation, station, or established area, or, for large reservations, the established subdivision thereof, having definite boundaries within which the designated post or duty is located."

See also 52 Comp. Gen. 446 (1973). Thus, in Baxter and Hunter, 61 Comp. Gen. 27 (1981), we allowed overtime for time traveled by two FAA employees who were stationed at the Sawtelle Peak, Idaho, radar facility. However, in that case the FAA had designated a pickup point for a government vehicle some 49 miles away from the radar site. This, in effect, became the employees' official duty station, and they were allowed overtime for travel to and from their worksite.

This is not the case here. Mr. Blackburn traveled from his home to his official duty station via Big Stone Gap, a distance of approximately 15 miles, all of which as FAA states is within his duty station. There is nothing in the record to dispute the administrative determination made by FAA that Mr. Blackburn was not in a travel status away from his official station. Accordingly, Mr. Blackburn is not entitled to overtime under 5 U.S.C. § 5542(b)(2)(B).

Moreover, even if Mr. Blackburn was in a travel status away from his official duty station he would not be entitled to overtime under title 5, United States Code. Travel outside of regular duty hours which has no purpose other than to transport employees to and from the place where they are to perform actual work is not compensable unless the traveltime meets one of the four conditions set forth in 5 U.S.C. § 5542(b)(2)(B). This travel would not meet the first, third, or fourth condition under section 5542(b)(2)(B) since it does not involve the performance of work while traveling, is not carried out under arduous conditions, or does not result from an event which could not be scheduled or controlled administratively. However, Mr. Blackburn argues that, since he picked up the mail and supplies at the post office, he is entitled to overtime under the second condition under section 5542(b)(2)(B) since his traveltime was incident to travel that involves the performance of work while traveling.

We agree with the FAA that this task to pick up mail and supplies was not Mr. Blackburn's primary function so as to entitle him to overtime. Mr. Blackburn was a supervisor, whose job was primarily to perform supervisory functions, not to transport mail and supplies. See 51 Comp. Gen. 727 (1972). The FAA reports that mail and supplies could have been picked up during the regular workday, and, in fact, Mr. Blackburn says that another supervisor at a radar site performed those same tasks during his regular duty hours and was reimbursed for his mileage. At most, Mr. Blackburn's task of picking up and dropping off the mail was performed as a matter of convenience incident to his travel from his home to the worksite and return. Therefore, his traveltime was not incident to travel that involves the performance of work while traveling so as to entitle him to overtime.

As to Mr. Blackburn's contention that other employees were paid overtime for their travel to and from the worksite while he was not and as to the current practice to allow employees to travel during their regular duty hours, we have no information concerning why the treatment may have been different. It is sufficient to state, however, that rights or benefits which may have been granted to one group of employees cannot be the basis for granting additional rights or benefits which have no basis in law or regulation to another group of employees. John B. Cleveland, B-221088, September 11, 1986.

Mr. Blackburn has also requested that he be reimbursed for mileage to and from his worksite. However, an employee must bear the cost of transportation between his residence and his place of duty. Lloyd Chynoweth, B-203978, March 11, 1982. Further, the allowance for reimbursement for the use of a POV for local travel is discretionary with the agency involved. 59 Comp. Gen. 333 (1980). There is nothing in the record to indicate that the FAA ever authorized and approved such travel for Mr. Blackburn.

Accordingly, Mr. Blackburn's claim for reimbursement for overtime and mileage for local travel is denied, and our Claims Group's settlement of February 28, 1985, is hereby sustained.

for Harry R. Van Cleave
Comptroller General
of the United States