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Lieutenant Colonel J. J. Vanya, USAF
Chief, Reserve Pay Division
Comptroller
Through Directorate of Accounting and Finance
Headquarters, Department of the Air Force

Dear Colonel Vanya:

Further reference is made to your letter of November 4, 1964, AFAPC (CP) S. Byma, requesting an advance decision as to the propriety of payment to Master Sergeant [REDACTED], Air Force Reserve, of pay and allowances and reimbursement of medical expenses incident to an injury incurred August 4, 1963, after the termination of active duty training. Your request was assigned Air Force Request No. DO-AF-814 by the Department of Defense Military Pay and Allowance Committee.

By Reserve Order B-47, Headquarters, 2483 Air Force Reserve Sector (COMAC), dated May 28, 1963, Master Sergeant [REDACTED] and other members of 9545 Air Force Reserve Recovery Squadron were ordered to active duty for 15 days for the purpose of Annual Unit Encampment effective July 21, 1963. The orders further provided that the subject airmen would report to the unit at 1451 East Pythian Street, Springfield, Missouri, at 0730 hours, July 21, 1963, and that they would be released from active duty on August 4, 1963. In compliance with the order, Master Sergeant [REDACTED] performed active duty at Springfield, Missouri, from July 21 to August 4, 1963. Since his home is situated at [REDACTED], Springfield, Missouri, no travel was involved.

After his release from active duty on August 4, 1963, and at approximately 5 p.m. that day, Master Sergeant [REDACTED] was injured in a boating accident at Table Rock Lake, while he and his wife and son, along with another boy, were visiting their friends, [REDACTED], at their cabin located near Shell Knob, some 70 miles from Springfield, Missouri. He was hospitalized from August 4 to 14, 1963, and did not return to his civilian employment

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until August 27, 1963. On the basis of the statements made on AF Form 348 by his unit commander, the airman claims active duty pay and allowances for the period August 5 through 27, 1963, and reimbursement of the amount paid by him for medical and hospital expenses not covered by insurance. In view of your doubt as to the validity of the claim you request a decision in the matter.

Line of duty determination, AF Form 348, executed by Dr. Michael J. Clarke and Lieutenant Colonel William E. Peck finding that Master Sergeant [REDACTED] was injured in line of duty discloses that at the time the accident occurred he was absent from duty with authority, having been released from processing at the Headquarters of his unit of assignment. While the exact time of his release is not shown and it is indicated that he was participating in service-planned recreation, it is to be noted that the accident occurred while he apparently was on an excursion with his family and friends some 70 miles from the place where he had performed active duty, which was in the immediate vicinity of his home.

A member of the Air Force, other than Regular Air Force, is entitled to the pay and allowances and to hospital benefits provided by law or regulation for a member of the Regular Air Force whenever he is called or ordered to active duty or to perform inactive duty training, for any period of time, and is disabled in line of duty from injury "while so employed." 10 U.S.C. 8721(2) and 37 U.S.C. 204(g)(2). A right to such benefits exists only if disability results "while so employed," that is, while in an active duty status.

While a reservist ordered to active duty is entitled to full pay and allowances for each day he serves pursuant to his orders, he may not be considered as being in an active duty status (insofar as 10 U.S.C. 8721(2) is concerned) after the time of his actual release from active duty, where no travel is involved. Compare 43 Comp. Gen. 412, 415, answer to questions (b) and (c). That is to say that, even though he is entitled to receive pay for the full day of his release, he reverts to his civilian status the instant he is released from military control (where no travel is involved) and is no longer entitled to the benefits of the cited provisions of law in connection with an injury sustained after release and while engaged in his civilian pursuits.

Since it appears clear that Master Sergeant [REDACTED] was released from active duty prior to sustaining his injury and no further training

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was planned for that day after his release, it cannot be said that he was performing active duty and that he was injured in line of that duty while participating in a recreational activity, even though he may have been released early in the day so that he could enjoy a period of recreation after active duty. The fact that he was entitled to pay and allowances for the full day of August 4, 1963, is of no consequence inasmuch as a day is not divisible for pay purposes. See 37 U.S.C. 203 and 1004. We find no sound basis for payment to the airman of the items here involved and, accordingly, the vouchers received with your request are retained here.

Very truly yours,

FRANK H. WEITZEL

Assistant Comptroller General
of the United States