

**DOCUMENT RESUME**

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[Claims of Civilian Guards for Overtime Compensation]. B-156407.  
April 25, 1977. 4 pp.

Decision re: W. S. Brandenburg; Herbert C. Johnson; William E. Thompson; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Naval Academy, Annapolis, MD.

Authority: B-184002 (1976). B-179908 (1973).

Kenneth T. Flaylock, National President, American Federation of Government Employees, and Mrs. William E. Thompson, the wife of one of the claimants, requested reconsideration of the claims of two guards and one cook for overtime pay. The guards' claims were based on early reporting to and delayed leaving from work. The cook's claim alleged that he was induced to report early to change into uniform. The prior decision was affirmed, as the guards early reporting was offset by a paid lunch period, and the cook had the option to wear his uniform to work. (RFS)

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**DECISION**



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

**FILE:** B-156407

**DATE:** April 25, 1977

**MATTER OF:** W. S. Brandenburg, Herbert C. Johnson, and  
William E. Thompson. - Overtime Compensation

**DIGEST:**

1. Claims of civilian guards for overtime compensation were previously denied on basis that early reporting was offset by paid lunch period. Upon reconsideration, disallowance is sustained since statement by shop steward that guards were not relieved of duty during lunch is not sufficient to overcome the statement of Chief Guard that guards were relieved and enjoyed uninterrupted lunches on Government time.
2. Disallowance of claim of civilian cook for overtime compensation for reporting early to change into uniform is sustained since avoidance of record shows that employee had option to wear uniform to work. Allegation that he was induced to report early in order to change into work uniform is not supported by substantive evidence.
3. Mere knowledge on the part of a supervisory official of overtime worked by an employee, without affirmative inducement, is not sufficient to support recovery by the employee in the absence of an order authorizing or approving overtime by a competent official.

This action is in response to the requests of Mr. Kenneth T. Blaylock, National President, American Federation of Government Employees, and Mrs. William E. Thompson, for reconsideration of

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decision B-156407, July 14, 1976, concerning the claims of W. S. Brandenburg, Herbert C. Johnson, and William E. Thompson for overtime pay for early reporting to and delayed leaving from work. The facts were fully stated in our decision of July 14, 1976, and need not be repeated here except as pertinent to the present discussion of the case.

Mr. Blaylock has also submitted powers of attorney and statements on behalf of eleven other similarly situated claimants who were employed as guards by the United States Naval Academy, Security Police Division. These eleven claimants had all submitted claims for overtime which were denied by our Claims Division, and Mr. Blaylock requests reconsideration of their respective settlements in the event that we herein reverse our decision B-156407, dated July 14, 1976, in the matter of Messrs. Brandenburg, Johnson, and Thompson. Both Mrs. Thompson and Mr. Blaylock have alleged misconceptions by our Office which were the basis of our July 14, 1976, decision.

With regard to that portion of the July 14, 1976, decision which dealt with the claims of Messrs. Brandenburg and Johnson for overtime for early reporting while employed as guards by the Department of the Navy, Mr. Blaylock asserts that those claimants, and all other similarly situated employees, should be paid overtime for reporting to work 15 minutes prior to the beginning of their duty shift for personnel inspection and briefings. The claims of Messrs. Brandenburg and Johnson were originally denied on the basis that, although early reporting was required, such time was more than offset by paid lunch periods taken on Government time.

Mr. Blaylock asserts that the employees could not depend on being relieved to eat their lunches because the patrolmen who were to relieve the guards were very often called upon to perform emergency and various other duties during this period. He maintains that the lunch periods were interrupted approximately 70 percent of the time. In support of his arguments, Mr. Blaylock has submitted a statement from Edmond S. Keane, Shop Steward, U. S. Naval Academy, Security Police Division, who indicates that the guards could not depend upon the patrolmen for relief and, therefore, were required to eat lunch without relief whenever possible. This statement is in direct conflict with the administrative report wherein Mr. Richard Luttrell, Chief Guard,

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indicated that the guards were relieved of duty so that they might enjoy uninterrupted lunch periods in all but emergency situations.

On the present record, we cannot say that the statement by the Shop Steward is sufficient to overcome the administrative determination of fact. B-184002, November 4, 1976. Therefore, we will not set aside such determination, and we reaffirm decision B-156407, July 14, 1976, on this point.

The claim of Mr. Thompson for overtime pay allegedly earned while employed as a cook at Chanute Air Force Base was denied in our July 14, 1976, decision because there was no evidence in the record that Mr. Thompson was induced by his supervisor to report early or to leave late and because food service employees had the option to wear their uniforms to work (thus negating his argument that he had to report early to put on his uniform).

Mrs. Thompson argues on behalf of her husband that he was indeed induced to report early to change his clothes, and that he was permitted to do so with the full knowledge of his supervisor who even gave him a key to the hospital where he worked so that he could enter early. She also argues that he is entitled to overtime since he was never advised that he need not report to work early in spite of the fact that his supervisors were aware that he regularly reported early. The administrative report furnished by the Air Force contained the statement that a locker room and dressing facility were available and that Mr. Thompson was not required to change on his own time. Additionally, Mrs. Thompson requests a hearing in order to present her husband's case as to this factual dispute.

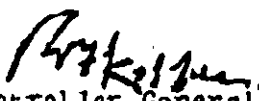
While representatives of this Office meet with an individual claimant upon request, our disposition of a case is based upon the written record. However, where as here no substantive evidence to refute the administrative version has been presented by the claimant or his wife, a meeting would seem to us unlikely to serve a useful purpose. Rather, we believe the factual controversy is best reserved for scrutiny in the courts.

Furthermore, we have held that mere knowledge on the part of a supervisory official of overtime worked by an employee, without affirmative inducement, is not sufficient to support recovery by the employee in the absence of an order authorizing or approving

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overtime by a competent official. See B-179908, December 20, 1973. We have examined the record and have found no evidence that Mr. Thompson was induced to work overtime. Since no such evidence has been submitted with the request for reconsideration, our July 14, 1976, decision is sustained on this point.

For the above-stated reasons, our decision B-156407, dated July 14, 1976, in the matter of W. S. Brandenburg, Herbert C. Johnson, and William E. Thompson, is affirmed, and the claims of the eleven similarly situated employees need not be reconsidered.

  
Deputy Comptroller General  
of the United States