

**DECISION**

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

FILE: B-182231

DATE: FEB 9 1976

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099239  
99348

MATTER OF: Shirley N. Bingham--Overtime Compensation--  
Reconsideration 99133

DIGEST: Employee who allegedly worked overtime and whose claim for overtime compensation was disallowed on the ground that such overtime was not authorized or approved requests reconsideration of that decision. Upon reconsideration previous disallowance is affirmed where record neither shows that such overtime was officially authorized or approved as required by 5 U. S. C. § 5542(a) nor affirmatively induced.

This action is in response to a request for reconsideration of our decision of July 10, 1975, B-182231, which sustained the disallowance by our Transportation and Claims Division (now Claims Division) of the claim of Shirley N. Bingham, an employee of the National Labor Relations Board (NLRB), for overtime compensation for the period beginning July 1, 1970. The facts in this case were fully stated in our decision of July 10, 1975, and need not be repeated except as pertinent to the present discussion of the case. In asking for a reconsideration of our July 10, 1975 decision, Ms. Bingham states alleged misconceptions by our Office upon which the disallowance of her claim rested.

Ms. Bingham claims that "the Regional Director (of NLRB) is not the only official vested with authority to approve overtime" and indicates that the Regional Attorney, Assistant Director, and others who directed her work and activities, also had authority to authorize or approve overtime. While Ms. Bingham has not presented any regulation or other written authority to support this statement the memorandum of December 20, 1974, from the Director of Region 20, Mr. Hoffman to Ms. Bingham, indicates otherwise. Mr. Hoffman stated therein that even before he could authorize such extended overtime as Ms. Bingham claimed to have worked he must first obtain the approval of the Central Office. Mr. Hoffman stated further that if Ms. Bingham had raised the overtime compensation problem prior to the performance of the alleged work in question he would have found a method of solving the problem without resorting to overtime.

Ms. Bingham contends further that the second misconception by our Office is in the statement on page 4 of the decision of July 10, 1975, B-182231, which provides as follows:

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"\* \* \* It is clear from Ms. Bingham's own statements that there was no reason that she could not have discussed her need for assistance with the Regional Director subsequent to Mr. Letter's departure. For the period prior to Mr. Letter's departure, his injunction not to discuss the matter (claimant's request for assistance or overtime) with the Regional Director, should have been appealed \* \* \*."

In her request for reconsideration of her claim for overtime Ms. Bingham states that the injunction not to discuss her problem with the Regional Director was mandated jointly by Mr. Letter (the Regional Attorney) and Ms. Allen (the Assistant Regional Director). When Mr. Letter left the NLRB, Ms. Allen, claimant contends, did not rescind the mandate not to discuss her problem with the Regional Director. The file indicates that the Assistant Regional Director of the NLRB at Bingham's location did not have the authority to officially authorize or approve overtime under 5 U. S. C. § 5542(a). Thus even if Ms. Allen had induced Ms. Bingham to perform overtime work, claimant would not be able to receive compensation under these facts.

Since the record does not show that the time indicated on Ms. Bingham's claim was officially authorized or approved as required by 5 U. S. C. § 5542(a) we must affirm the disallowance of the claim. In reaching this conclusion we have redetermined that the record before us does not contain data to show affirmative inducement of the overtime in question as well as the fact that no order by a competent official authorized or approved it. See Baylor v. United States, 198 Ct. Cl. 331, 359 (1972).

The decision of July 10, 1975, disallowing the claim for overtime compensation by Ms. Bingham is again sustained.

R.F. KELLER

Deputy Comptroller General  
of the United States