

**DECISION**



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

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FILE: B-182610

DATE: FEB 5 1975

MATTER OF: John M. Embry - Overtime compensation

**DIGEST:**

1. Federal Protective Officer (FPO) employed by General Services Administration (GSA), Region 9, appealed our Transportation and Claims Division disallowance of his claim for overtime compensation for time spent changing into and out of uniform before and after official tour of duty. Disallowance is affirmed since GSA reported changing uniform at job was wholly voluntary and Regional Commissioner of GSA's Region 9, the only official authorized to order or approve Region 9's FPOs performance of such overtime did not order or approve such overtime work.
2. Federal Protective Officer employed by General Services Administration who appealed our Transportation and Claims Division's denial of his claim for overtime compensation for having worked during his lunch periods may not be compensated for such periods since his lunches were eaten during his normal 8-hour shift for which he was already compensated.

This action concerns an appeal from our Transportation and Claims Division's disallowance of the claim of Mr. John M. Embry for overtime compensation believed due because of his early reporting and delayed departures and for lunch periods during which he worked, incident to his employment with the General Services Administration (GSA), Region 9, as a Federal Protective Officer (FPO).

The record shows that Mr. Embry claimed overtime compensation from 1965 to the present time, excluding periods during which he was on sick or annual leave and excluding the period from August 1967 to May 1968, in the amount of 20 to 30 minutes per day for allegedly being required to report early and leave late in order to change into and out of his uniform and to perform other incidental duties. Mr. Embry also claims 30 minutes overtime compensation per day for lunch periods during which he worked. On October 1, 1974, our Transportation and Claims Division denied Mr. Embry's claim because any overtime he may have worked in order to change into and out of uniform was not performed pursuant to an official requirement and was not ordered or approved by the authorized official and because

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B-182610

he worked and was compensated for a straight 8-hour day, and thus was not entitled to 30-minute free lunch periods. On October 3, 1974, Mr. Embry appealed our Transportation and Claims Division's denial of his claim.

In our decision of B-175363, November 26, 1974, we considered an almost identical claim from an FPO in GSA's Region 9 and held that he was not entitled to overtime compensation for performing these preshift or postshift duties. GSA had reported that the Regional Commissioner of Region 9, who was the only official having authority to order or approve such overtime work, had no knowledge of any requirement that FPOs in Region 9 had to perform such overtime and that in fact by policy and practice during the entire period claimed, and later by specific regulation, FPOs were permitted to dress at home with the exception of caps and badges. A lengthy discussion of the facts and law leading to this result was made in our decision B-175363, supra. Therefore, they need not be repeated here. Since GSA's report is applicable to all FPOs in Region 9, in the absence of new evidence refuting it, we adopt the same reasoning as in B-175363 and find that Mr. Embry's preshift and postshift work was also not ordered or approved by the properly authorized official and is therefore not compensable.

Mr. Embry claims overtime compensation for lunch periods of 30 minutes per day even though he worked a regular 8-hour tour of duty. However, since 5 U.S.C. §6101 (1970) requires that an agency ordinarily assign an employee to a basic administrative work week of 40 hours and a basic work day of 8 hours for a full time employee, the 30-minute lunch period during which Mr. Embry worked is actually a part of his official work period and, therefore, may not be compensated for at overtime rates. B-175363, supra.

For the above reasons we affirm the disallowance of Mr. Embry's claim.

R.F.KELLER

Deputy Comptroller General  
of the United States