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Weiskopf
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DECISION



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

FILE: B-189413

DATE: March 14, 1978

MATTER OF: John L. Nelson, III - Compensation For Work
Performed Beyond Limitation of Appointment

DIGEST: Temporary employee of Department of
Agriculture who worked 4 days beyond
his appointment limitation of 180 days
is entitled to be paid for services
rendered on those days as a de facto
employee since the services were per-
formed in good faith and under color
of authority. Matter of Timothy P.
Connolly, B-186229, June 8, 1977.

This action is in response to a request dated June 17, 1977, reference FI-2 OCH, from Orris C. Huet, an authorized certifying officer of the Department of Agriculture, for an advance decision whether a claim submitted by Mr. John L. Nelson, III, for work performed after expiration of his temporary appointment may be certified for payment.

Mr. Nelson was hired as a Civil Engineer Technician by the Department of Agriculture, Forest Service, Coconino Forest, on May 19, 1975, under a 180-day appointment not to exceed May 18, 1976. On January 18, 1976, Mr. Nelson was converted to an excepted conditional appointment within the provisions of the United States Department of Agriculture Personnel Manual paragraph 213.3113, and the not to exceed date of May 18, 1976, was dropped. However, under the terms of his excepted appointment, Mr. Nelson still was limited to 180-days employment during any given service year. Mr. Nelson's service year ended June 3, 1976. Therefore, any work performed beyond the 180-day limitation and before June 3, 1976, was not authorized by his appointment. Due to an administrative error by the Forest Service, Mr. Nelson was permitted to work 4 days in excess of his 180-day limitation. A Time and Attendance Report, which included the excess 4 days, was submitted for payment to the National Finance Center where the excess time was deleted and not paid.

A memorandum dated September 8, 1976, from the Forest Supervisor, Coconino National Forest, states that Mr. Nelson performed

B-189413

the work in good faith and that the failure to terminate his employment at the expiration of 180 days was due to administrative error and not to the fault of the employee. The Forest Supervisor, therefore, recommends payment in this case.

In Matter of Timothy P. Connolly, B-186229, June 8, 1977, we confronted a factual situation which is almost identical to the one in the case at hand. In that case we held that an employee, who rendered service in good faith and under color of authority beyond his appointment limitation due to administrative error, should be considered under the principle announced in 55 Comp. Gen. 109 (1975), and 52 id. 700 (1973), as a de facto employee and compensated for his service in excess of his appointment limitation. See also Matter of Boyd H. Bates, B-189954, September 27, 1977.

Similar cases involving excess time worked after expiration of a temporary appointment due to administrative error may be decided by the agency under the authority of Connolly and Bates. Doubtful cases should of course be forwarded to this Office in accordance with 31 U.S.C. 82d.

Accordingly, Mr. Nelson's claim for compensation for the reasonable value of the 4 days' services rendered beyond the 180-day limitation may be certified for payment.


Deputy Comptroller General
of the United States