

UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548IN REPLY  
REFER TO: B-191333

Released

OFFICE OF GENERAL COUNSEL

March 31, 1978

Ms. Donna D. Beecher  
Director, Personnel Systems  
and Payroll Division  
Department of Housing and Urban  
Development

Dear Ms. Beecher:

This is in response to your letter of February 23, 1978,  
reference APS, regarding Mr.

Reston, Virginia, a former employee of the Department of  
Housing and Urban Development (HUD), who has requested compensation  
for working November 29, 1974, which was his orientation day as a  
temporary employee in the Office of Fair Housing and Equal Opportunity.

Your letter is not accompanied by sufficient documentation,  
such as Mr.                      appointment papers and related material, which  
would enable our Office to render a decision. However, we will advise  
you insofar as possible.

Generally when an employee is appointed, he receives orientation  
briefing after he has taken the oath of office and, therefore, is  
paid for the time covered by the briefing. However, the record here  
indicates that Mr.                      was requested to report for orientation  
on November 29, 1974, in connection with his appointment on December 2,  
1974. He apparently attended orientation briefing, which normally  
lasts about 4 hours, but did not perform any work for which he was  
employed.

It is well established that, generally, compensation may not be  
paid an employee for any period prior to the effective date of his  
appointment. 20 Comp. Gen. 267 (1940). However, as pointed out by  
you, in certain cases employees have been paid the reasonable value  
for services performed by them prior to the effective dates of their  
appointments on the basis that they were de facto employees.

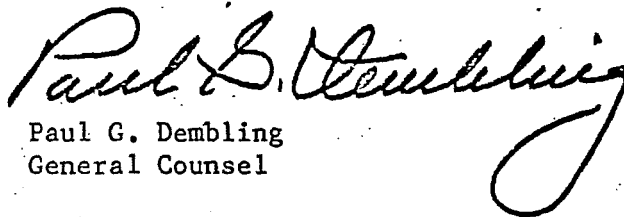
In decisions B-188424, March 22, 1977, and B-189351, August 10,  
1977, employees were paid the reasonable value of their services.

B-191333

They were considered de facto employees since they performed the regular duties of their positions and acted under color of authority prior to the effective dates of their appointments. Also, see B-188574, December 29, 1977. In the instant case it does not appear that Mr. \_\_\_\_\_ performed, on November 29, 1974, any of the duties of the position to which he was appointed. Therefore, it does not appear that he may be paid for the time covered by his orientation.

In view of the above you should inform Mr. \_\_\_\_\_ that he apparently is not entitled to pay for attendance at the orientation briefing on November 29, 1974. However, he may file a claim with our Claims Division for such attendance. If he decides to file a claim, action will be expedited if he files it initially with your office for transmittal to our Claims Division with an administrative report and pertinent documentation. See 4 C.F.R. §§ 31.2 and 31.4.

Sincerely yours,

  
Paul G. Dembling  
General Counsel

cc: Ms. Mary George  
Office of Fair Housing  
and Equal Opportunity, HUD

Director, Claims Division