

Pratt

DECISION



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

15188

PLM-II

FILE: B-194432

DATE: October 16, 1980

MATTER OF: Michael J. Johnson ^{Claim For} Restoration of annual leave

DIGEST: Although administrative employees of FAA's Indianapolis facility were excused from reporting to duty during snowstorm emergency of January 26, 1978, operational component remained open, staffed by air traffic control personnel who stayed on duty. Since facility was not closed, the 26th was not a nonworkday for purposes of leave administration and air traffic controller absent on approved leave for that day was properly charged annual leave even though some air traffic controllers scheduled for duty during the day shift were excused without charge to leave.

Mr. Michael J. Johnson requests reconsideration of the Claims Division's denial of his claim for restoration of 8 hours of annual leave expended on January 26, 1978. For the following reasons, we affirm the denial of the claim.

Mr. Johnson, an air traffic control specialist, was employed by the Federal Aviation Administration (FAA) at the Indianapolis Air Route Traffic Control Center, Indianapolis, Indiana. On Thursday, January 26, 1978, Mr. Johnson used 8 hours of previously approved annual leave. The administrative offices of the Indianapolis Center were closed on this day due to a heavy snowstorm which had blanketed the area during the preceding 24-hour period. However, the operational portion of the facility, manned for the most part by air traffic control personnel who stayed on duty from prior shifts, remained open. The record indicates that personnel on duty contacted those assigned to the Thursday day shift and advised them not to attempt to report to work. Upon discovering that administrative staff employees as well as some air traffic control specialists had been excused from duty without charge to leave on that day, Mr. Johnson requested that his

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8 hours of annual leave be changed to an excused absence under paragraph A-4b(3) of Appendix A to Book 610 of Federal Personnel Manual (FPM) Supplement 990-2. That subparagraph provides that employees on previously authorized leave will not be charged leave for nonworkdays on which Federal offices are closed.

The FAA denied the request, pointing out that although the administrative offices of the Center had been closed, the operational component to which Mr. Johnson was assigned, continued to function. Thus, the FAA concluded that it did not have the authority to grant Mr. Johnson an excused absence.

The Claims Division supported the position taken by the FAA. Its determination that Mr. Johnson's absence was properly charged to annual leave was predicated on paragraph A-4a(3) of Appendix A to Book 610 of FPM Supplement 990-2. That paragraph provides that when an employee is absent on approved leave for the entire work shift during which an emergency condition warranting excusal arises, his "absence is charged to appropriate leave i.e., annual, sick, or LWOP as applicable."

Seeking a reconsideration of the Claims Division's decision, Mr. Johnson states that he should be restored the 8 hours of leave since paragraph A-4a does not apply to his case and paragraph A-4b(3) does. Mr. Johnson contends that paragraph A-4a only addresses emergencies arising during a normal workday and thus does not apply to the severe snowstorm that occurred prior to the start of the day shift on Thursday, January 26, 1978. Because the administrative staff was excused from the full 8 hours of the day shift on the 26th, he claims that the 26th is to be regarded as a nonworkday and that his request for an excused absence on that day is controlled by subparagraph A-4b(3).

We agree with Mr. Johnson's assertion that paragraph A-4a is not strictly controlling in his case in that it is addressed to emergencies which arise during normal working hours. However, the record does not support his claim that the Indianapolis Air Route Traffic

Control Center was closed on January 26, 1978, and thus we cannot find that Mr. Johnson's request for recrediting of annual leave is governed by subparagraph A-4b(3). That subparagraph, addressed to the situation in which Federal offices are closed by administrative action, sets forth but one course of action that may be appropriate when an emergency situation develops outside normal working hours.

[In citing the rule that an employee on previously authorized leave will not be charged leave for the day of closure, subparagraph 4b(3) reflects the holding in 43 Comp. Gen. 501 (1964) that an employee on previously authorized leave on the day that Federal offices are closed is not to be charged leave for that day. That decision is predicated on section 205 of the Annual and Sick Leave Act of 1951 which, as codified at 5 U.S.C. § 6302(a), defines days of leave as "days on which an employee would otherwise work and receive pay * * * exclusive of holidays and nonworkdays established by Federal statute, Executive order or administrative order."

[Unless a Federal office is closed so that the day is a nonworkday, an employee in an authorized leave status is required to be charged leave even though other employees not on leave may have been excused for the entire workday and even though he possibly would have been excused for the entire day had he not scheduled his leave for the day in question.]

The manner in which the FAA dealt with the snow emergency on January 26, 1978, is not strictly in accordance with any of the three alternatives outlined in paragraph A-4b. Subparagraphs A-4b(1) and (2) set forth procedures for dealing with emergencies that occur during nonworking hours that provide for keeping Federal offices open. Both subparagraphs include provisions for excusing individual employees who have made diligent but unsuccessful efforts to report to work. While the excusal procedures employed by the FAA on January 26th were more broadly based than those detailed in subparagraphs A-4b(1) and (2) and did not involve the office closure situation contemplated by subparagraph A-4b(3), the following language from paragraph A-1 stresses

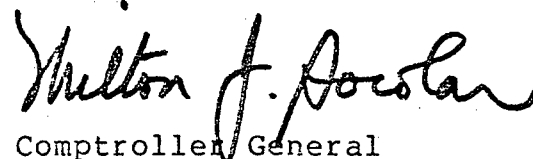
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that the Appendix A guidelines are not intended to be restrictive in scope or to cover every situation:

"Although adoption of these guidelines in whole or in part by any agency is at its discretion; it is urged that the general procedures and policies described herein be utilized to the extent feasible. These guidelines are intended to cover the majority of situations * * *."

The FAA's adaptation of these procedures to the snow emergency of January 26, 1978, appears to have been reasonable in light of the severity of the situation and in view of state and local directives to keep nonessential vehicles off the roads. Its determination to keep the operational facility open with available personnel and to excuse certain employees from work was within the scope of its authority to administratively excuse employees in emergency situations.

(Since the Indianapolis Air Route Traffic Control Center was not closed on January 26, 1978, and since Mr. Johnson was on previously authorized annual leave, we find that the charge to his leave account for that day was proper.)



For the Comptroller General
of the United States