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DECISION



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

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FILE: B-198428

DATE: August 7, 1980

Request For

MATTER OF: Curtis L. Davis and Daniel G. Sherlock -
Overtime compensation - Traveltime -
5 U.S.C. § 5542(b)(2)

DIGEST: Customs Service inspectors who spent 30 minutes returning official vehicle to storage area after completing overtime assignment compensable under 19 U.S.C. § 267 claim additional overtime compensation under 5 U.S.C. § 5542(b)(2)(B)(iv) on basis that such traveltime was result of event which could not be scheduled or controlled administratively. However, record establishes that all travel performed in connection with claim took place within employees' defined duty station. Therefore, since travel was not "away" from official duty station it does not meet requirements of 5 U.S.C. § 5542(b)(2) for payment of overtime compensation for time spent in travel status.

L. R. Byrne, an authorized certifying officer for the U.S. Customs Service, has requested an advance decision on the legality of paying overtime under 5 U.S.C. § 5542(b)(2) to two Customs Service inspectors for time spent in returning an official vehicle to the storage area after completion of an overtime assignment compensable under 19 U.S.C. § 267 (1976). Since the travel was not "away" from their official duty station it does not meet the requirements of 5 U.S.C. § 5542(b)(2) for payment of overtime compensation.

The administrative report states that Customs Inspectors Curtis L. Davis and Daniel G. Sherlock were assigned to enter an aircraft at Jacksonville Naval Air Station after their regular tour of duty on August 1, 1979. They utilized an official vehicle to travel from the dock location to the air station, both locations being within their official duty station. In this regard the record shows that the Customs Service has defined the Jacksonville port area as being the employees' official duty station and that all travel took place within the port area. Upon completion of the overtime assignment the two inspectors spent 30 minutes returning the official vehicle to the storage area at the dock office. Overtime compensation was paid under 19 U.S.C. § 267 for the work performed at the site.

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The employees contend that they are entitled to compensation under 5 U.S.C. § 5542(b)(2)(B)(iv) for the 30 minutes spent in returning the official vehicle to the storage location on the basis that the traveltime was the result of an event which could not be scheduled or controlled administratively. This contention is based on the fact that the flight to be cleared was delayed.

The Customs Service has denied the employees' claim for overtime compensation in connection with the time spent returning the official vehicle to the Customs office based upon the following provisions in section 27.45(3)a of the Customs Manual:

"The time required by an employee beyond his workday in going to the customhouse, or other customs office or garage to obtain a Government car, official forms, records, and supplies and to return such items, including money collected, shall not be the basis for the payment for any overtime compensation unless the employee qualifies for the payment of overtime compensation under the Federal Employees Pay Act of 1945, as amended, under the conditions as outlined in (3) above or under the provisions of the customs overtime laws."

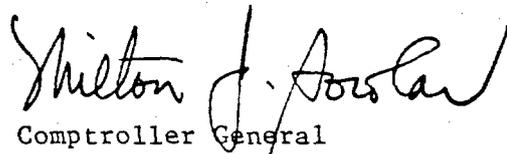
The employees have responded by asserting that they qualify for overtime compensation under the Federal Employees Pay Act of 1945, as amended, 5 U.S.C. § 5542 (1976). Inspectors Davis and Sherlock contend that the delayed arrival of the aircraft, which gave rise to the travel outside the regularly scheduled tour of duty, could not be scheduled or administratively controlled. Thus, in accordance with 5 U.S.C. § 5542(b)(2)(B)(iv), they believe they are entitled to payment of overtime compensation in connection with the time spent returning the official vehicle to the Customs office.

Generally, travel which is an inherent part of and inseparable from work itself constitutes work, and if such travel extends the employee's time in a work status beyond 8 hours a day or 40 hours a week, it is compensable as overtime work. Travel which represents an additional incidental duty directly connected with the performance of a given job and which is considered an assigned duty is regarded as travel inherent in work. See 43 Comp. Gen. 273 (1963); and B-173103, November 16, 1971. However, travel which has no purpose other than to transport an employee to and from the place where he is to perform

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actual work is not regarded as an incidental duty which is inseparable from work and is not regarded as work. See 41 Comp. Gen. 82 (1961); and B-178241, May 25, 1973. This reasoning is incorporated in the provisions of section 27.45(3)a of the Customs Manual, which provides that the traveltime of employees, such as that of Inspectors Davis and Sherlock in the present case, is not compensable unless the travel qualifies for overtime compensation under 5 U.S.C. § 5542(b)(2). However, that statute provides for overtime only if the time spent traveling involves travel away from the official duty station and meets one of the following conditions: (i) involves the performance of work while traveling (ii) is incident to travel that involves the performance of work while traveling (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.

Here we do not reach the employees' contention regarding whether the return travel to the dock area resulted from an event that could not be scheduled or controlled administratively. The record clearly establishes that all travel performed by the employees in connection with this claim took place within the Jacksonville port area which was the employees' official duty station as defined by the Customs Service in accordance with Federal Personnel Manual Supplement 990-2, Book 550, subchapter S1-3. See 52 Comp. Gen. 446 (1973). Therefore, since the travel in question was not "away" from the official duty station it does not meet the requirements of 5 U.S.C. § 5542(b)(2) for payment of overtime compensation for time spent in a travel status.



For The Comptroller General
of the United States