

**DECISION**



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

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**FILE:** B-202564

**DATE:** July 31, 1981

**MATTER OF:** Mr. Robert Voigt

**DIGEST:** Civilian employee whose regular workweek includes Sunday, may not take military leave under 5 U.S.C. § 6323(a) (1976) to attend weekend Navy Reserve drills since employee, as a member of a Reserve component of the Armed Forces, is entitled to military leave under section 6323(a) only if he is on active duty under 10 U.S.C. § 270(a) (1976), and drills are inactive duty.

This action is in response to a request for an advance decision from the Finance and Accounting Officer, Tooele Army Depot, Tooele, Utah. The request concerns whether Mr. Robert Voigt, an Army civilian employee and a member of the Naval Reserve, is entitled to have his absence from his civilian job during a day designated as a Reserve drill charged to military leave. As is explained below, the answer is no.

Mr. Voigt received orders requiring him to report for 12 days of training at the Naval Air Station in San Diego, California, commencing on July 14, 1980, and extending through July 25, 1980. Although the orders indicated that the duty was annual active duty for training, they also stated that the designated travel day was July 11, 1980, and that Mr. Voigt was to receive weekend drill pay for Saturday, July 12, and Sunday, July 13.

Mr. Voigt's regular workweek is other than Monday through Friday and both Friday, July 11, and Sunday, July 13, were regular workdays while Saturday, July 12, was a regular non-workday. The records indicate that Mr. Voigt reported to the Naval Air Station on Friday, July 11, and he was granted military leave from work for that day because he was in a military travel status. The issue presented here is whether Mr. Voigt is also entitled to receive military leave for Sunday, July 13, a regular workday for which he was receiving drill pay.

Military leave for civilian employees of the Federal Government is authorized by 5 U.S.C. § 6323 (1976), which, during the period in question, stated in part:

[Entitlement of Civilian Employee to Military Leave]

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"(a) An employee \* \* \* is entitled to leave without loss in pay, time, or performance or efficiency rating for each day, not in excess of 15 days in a calendar year, in which he is on active duty or is engaged in field or coast defense training under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard."

Hence, an employee is entitled to military leave only if he is on active duty as a member of a Reserve component of the Armed Forces or if he is engaged in field or coast defense training as a member of the National Guard.

The training requirements for members of Reserve components of the Armed Forces are found at 10 U.S.C. § 270 (1976) which states in part that:

"(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense \* \* \* each person who is inducted, enlisted, or appointed in an armed force after August 9, 1955, and who becomes a member of the Ready Reserve under any provision of law except section 269(b) of this title, shall be required, while in the Ready Reserve, to--

"(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year;

"(2) serve on active duty for training not more than 30 days during each year."

When Mr. Voigt, as a member of the Naval Reserve, attends the required drills or training periods for which he is paid "drill pay," he is performing "inactive duty" training. See

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37 U.S.C. § 206(a) (1976), and Department of Defense Military Pay and Allowances Entitlements Manual, para. 80301. The military leave entitlement found at 5 U.S.C. § 6323(a) applies only when he is on "active duty" for training under section 270(a). There is no authority to grant a Federal employee military leave to attend weekend drills even though the employee is required to be absent from work. See, 32 Comp. Gen. 363 (1953); Matter of Donald Hubbard, B-187704, May 6, 1977; Matter of Pete Lewis, Jr., B-188145, November 15, 1977.

Mr. Voigt's orders show that he was to receive drill pay for Saturday, July 12, and Sunday, July 13, and that he was to report for active duty for training on July 14. Since he was absent from work on Sunday, July 13, because he was attending a weekend drill (inactive duty training) with his Reserve unit, it would be inappropriate for this absence to be charged to military leave.



Acting Comptroller General  
of the United States