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**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Norma Visneski - Holiday Pay - Leave Without
Pay Status
File: B-225137
Date: March 10, 1987

DIGEST

An employee was in an administratively approved leave without pay status (LWOP) on December 24. Due to delay in arriving at her duty station on December 26, she was charged an additional 1 hour as LWOP, but she worked the remainder of her scheduled tour of duty that day. We conclude that she is entitled to pay for the December 25 holiday. So long as an employee is in a pay status on the workday either before or following a holiday, the presumption is that the employee would have worked on the holiday and straight-time pay for -- the holiday may be paid. While the LWOP status on the workday before the holiday was planned, the employee's delay on the day following the holiday which caused the 1 hour LWOP charge was not anticipated. Under these circumstances, we presume that she would have worked on the day designated as the holiday.

DECISION

This decision is in response to a request from the Executive, Assistant Comptroller for Finance and Accounting, Office of the Comptroller of the Army. It concerns the entitlement of a civilian employee of the Department of the Army to be paid for the holiday of December 25, 1985, when she was in a leave without pay status (LWOP) both before and after the holiday. We conclude that the employee may be paid, for the following reasons.

BACKGROUND

Ms. Norma Visneski, a civilian employee at Fort Monroe, Virginia, was in a leave without pay status on December 24, 1985, because she did not have any accrued leave to cover her absence. She was also in an LWOP status for the first hour of her scheduled tour of work on December 26, 1985. Based on the agency's interpretation of our decision Pay for Holiday not Worked, 56 Comp. Gen. 393 (1977), the Finance and Accounting Officer declined to pay Ms. Visneski for December 25, 1985, since she was not in a pay status at the beginning of the day following the holiday, December 26.

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Ms. Visneski has challenged that interpretation. In response, the Finance and Accounting Officer admits that the only reason Ms. Visneski was charged LWOP for that first hour on December 26 was that she knew that morning that she would be at least 20 minutes late for work. Soon after she arrived at her duty station, she signed for 1 hour of leave which was charged as LWOP because she had a zero leave balance. Based on the foregoing, the agency asks whether an employee who is absent without leave on the workday immediately before the holiday (and who has not been ordered to work on that holiday) and for the first hour on the first workday after the holiday is entitled to pay for the holiday.

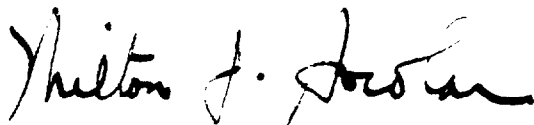
OPINION

In our decision in Pay for Holiday not Worked, cited above, we ruled that so long as an employee is in a pay status on either the workday preceding a holiday or on the workday succeeding a holiday, the employee is entitled to straight-time pay for the holiday, regardless of his status on the day not worked. The employee is paid for the holiday based on the presumption that but for the holiday, the employee would have worked. See Richard A. Wiseman, 62 Comp. Gen. 622 (1983).

In our decision in Employees of the Government Printing Office, B-206655, May 25, 1982, we considered the question of the entitlement of employees to be paid for the half-day they were excused from duty on December 24, 1981, on the recommendation of the President. We ruled, in part, that employees who were in a LWOP status on December 24 and also on the first workday following the December 25 holiday, would not be entitled to pay for the Presidentially excused period or on December 25. That ruling was predicated on the fact that the employees who were in an LWOP status before and following the Presidentially excused period, were apparently in an indefinite LWOP status, which would have included all days until they were administratively returned to duty. As a result, the presumption that but for the holiday such an employee would have worked on a day designated as a holiday would not arise.

In the present case, it is apparent that Ms. Visneski's LWOP leave day on December 24 was planned and administratively approved. It is also evident that both she and her supervisor anticipated that she would be on duty at the beginning of the first workday following the holiday.

Since Ms. Visneski did work on December 26, but for the brief delay in arriving at work that morning, it is reasonable to conclude she would have worked on the day designated as a holiday and, thus, is entitled to be paid for the holiday.

for 
Comptroller General
of the United States