



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Eunita Davis - Claim for Overtime - Travel During
Nonduty Hours

File: B-231800

Date: February 3, 1989

DIGEST

An employee may not be paid overtime or compensatory time for travel outside her regular duty hours on the basis that her travel, which was delayed due to bad weather, was under arduous conditions or that it was an event that could not be controlled administratively. The event that necessitated the employee's travel was the return to her permanent duty station and not the airline's action in rerouting her travel. Further, travel by common carrier, including airlines, is not travel under arduous conditions.

DECISION

This decision is in response to a joint request under 4 C.F.R. part 22 (1988) from the Department of the Treasury, Internal Revenue Service (IRS), and the National Treasury Employees Union, National Office, Chapter #65. The issue is whether an IRS employee is entitled to overtime compensation or compensatory time for time spent in travel outside of normal work hours when a delay in travel causes the employee to return later than expected from an official duty assignment. For the reasons that follow, we conclude that an employee may not be paid overtime or compensatory time under these circumstances.

BACKGROUND

Briefly stated, the facts are that Ms. Eunita Davis, an IRS employee, left her temporary duty station in Ogden, Utah, on Friday, aboard an airline flight en route to her permanent duty station in Washington, D.C. The flight was scheduled to arrive in Washington at 6:30 p.m.; however, due to weather conditions the flight was rerouted to Philadelphia, and Ms. Davis completed her trip to Washington by bus, arriving at 12:45 a.m. Saturday. Her next scheduled workday was Monday.

044597/137926

The union contends that the travel delay was caused by adverse weather which is an event which could not be scheduled or controlled administratively and that the travel was under arduous conditions. Therefore, the union argues that delay time constituted hours of employment, which under the provisions of 5 U.S.C. § 5542(b)(2) (1982) and 5 C.F.R. § 550.112(g) (1988), would entitle her to overtime compensation.

The agency contends that adverse weather conditions causing delay in travel are outside the meaning of section 5542(b)(2), which refers to events that are the original cause of the travel and not events occurring in the course of travel such as weather conditions. The agency considers the event prompting the travel to be Ms. Davis's routine need to return home after an official trip, and the agency argues that ordinary travel by commercial airliner and bus is not arduous and does not become arduous when a delay of approximately 6 hours is incurred.

OPINION

Under the provisions of 5 U.S.C. § 5542(b)(2)(B)(iii) and (iv) (Supp. IV 1986), time spent in travel status away from the official duty station of an employee is not hours of employment unless it is carried out under arduous conditions or results from an event which could not be scheduled or controlled administratively.

We agree with the agency's contention that the union has misconstrued the meaning of the word "event" in the context of the statutory language. The event that necessitated Ms. Davis's travel was the return to her permanent duty station and not the airline's action. John B. Currier, 59 Comp. Gen. 95 (1979); 54 Comp. Gen. 515 (1974). See also Don Edgar Burris, B-217874, Oct. 7, 1985, where we held that delays in obtaining return transportation, even though difficult to anticipate, are not the "events" that require the travel after regular hours.

We would also point out that a recent amendment to section 5542 reenforces our conclusion that an "event" is something that occurs outside the transportation and not the transportation itself.^{1/} The statute, as amended, now refers to travel which --

"results from an event which could not be scheduled or controlled administratively,

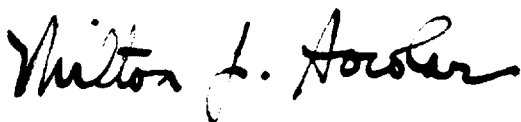
^{1/} See Pub. L. 98-473, 98 Stat. 1874, Oct. 12, 1984.

including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station." (Emphasis supplied.) 5 U.S.C. § 5542(b)(2)(B)(iv) (Supp. IV 1986).

Therefore, since Ms. Davis's return travel on Friday was solely for the purpose of returning home and was not to or from an event which could not be scheduled or controlled administratively, she is not entitled to compensatory time or overtime under 5 U.S.C. § 5542(b)(2)(B)(iv) for her return travel. John B. Schepman, et al., 60 Comp. Gen. 681 (1981); Daniel L. Hubbel, et al., B-229363, Oct. 17, 1988.

It is also well settled that the type of delay experienced by Ms. Davis does not constitute hours of employment which would qualify her for reimbursement for overtime under arduous conditions. Arduous conditions, as used in the statute, are conditions which impose a substantial burden on the traveler beyond that normally associated with travel, such as those imposed by unusually adverse terrain, severe weather conditions, and remote sites inaccessible by the ordinary means of transportation. Thus, we have held that absent some very unusual circumstance, travel by motor vehicle or by common carrier, including airlines, is not travel under arduous conditions, even though it may occur at night, continue over an extended period of time, and involve some risks. Nathaniel R. Ragsdale, 57 Comp. Gen. 43 (1977); 52 Comp. Gen. 702 (1973); 41 Comp. Gen. 82 (1961).

Accordingly, we hold that Ms. Davis's claim for overtime or compensatory time for travel outside her regular duty hours may not be allowed.



Acting Comptroller General
of the United States