



Comptroller General
of the United States

Washington, D.C. 20548

Decision

CP

Matter of: Lawrence T. Love

File: B-246967

Date: June 2, 1992

DIGEST

An employee was aware of the regulations regarding the statutory pay limitation on his entitlement to premium pay for Sunday and holiday work. Although he also states that he received oral information which apparently conflicted with the regulation, when he thereafter received premium pay which caused his aggregate pay to exceed that entitlement, he should have known that the excess payments were erroneous and that repayment would be required. Thus, the standards for waiver have not been met and waiver is denied.

DECISION

Mr. Lawrence T. Love has appealed our Claims Group's Settlement Z-2914235, July 17, 1991, which sustained his agency's denial of his request for waiver of overpayments of compensation in the total amount of \$2,043.84. We sustain the settlement action for the following reasons.

Mr. Love, an employee of the Bureau of the Census, Department of Commerce, who was on a 2-year assignment in Cairo, Egypt, worked a tour of duty which included Sundays and holidays. As a result, he was entitled to receive premium pay to the extent that the amount received would not cause his aggregate rate of pay to exceed the maximum rate of pay per pay period for a grade GS-15.¹ However, due to administrative error, payment of premium pay caused his aggregate pay to exceed that maximum rate for 15 pay periods between November 8, 1987, and September 10, 1988.

Based on an examination of the record presented by the agency, our Claims Group found that Mr. Love had been given written documentation informing him of the pay period limitation and, thus, should have been aware that his biweekly pay could not exceed the specified maximum rate. Further, although Mr. Love stated that he had been given

¹ 5 U.S.C. § 5547 (1988). ✓ 057532 149563

contrary information at his overseas location, he should have questioned the accuracy of the oral information. Since ~~he accepted~~ the payments in those circumstances, Claims Group concluded that he was not entitled to waiver.

In his appeal, Mr. Love makes two points. First, he states that he cannot recall having been furnished documentation by his agency showing the limitation on his entitlement to premium pay. However, he admits that he asked the USAID office in Cairo to show him the regulation limiting aggregate pay to that of a grade GS-15, step 10, but he says USAID personnel told him that "the limitation for overseas personnel is based on the ambassadors and differs from the 'stateside' salary." He also states that he brought all of this to the attention of the Census Bureau. Mr. Love's second point on appeal is that he did in fact call the Census Bureau many times about the Sunday differential pay in 1987-88, and he has provided a handwritten chronology of his efforts to straighten the matter out.

In the circumstances, we need not determine whether Mr. Love was or was not provided documentation by his agency because he states that he read the regulation regarding the pay limitation and presumably understood its contents. Since his basic pay at the time was at or near the pay cap, he knew or should have known that the payments for Sunday differential were made in error and that repayment would be sought by his agency. In view thereof, we agree with our Claims Group that collection of the overpayments was not against equity and good conscience nor contrary to the best interests of the United States. Therefore, waiver is denied.



James F. Hinchman
General Counsel

CIVILIAN PERSONNEL
Compensation
Overpayments
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Waiver