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DECISION



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

FILE: B-190097

.DATE: November 11, 1977

MATTER OF: Government Printing Office - Effective
Date of Wage Increase

- DIGEST:
1. Public Printer and employee representatives were unable to agree on amount of wage increase. Appeal was taken to Joint Committee on Printing pursuant to 44 U.S.C. § 305. On August 4, 1977, Joint Committee approved increase, setting effective date at June 18, 1977. Printer may adjust employee's salaries between June 18 and August 4, 1977, since impasse was reached between parties on June 10, 1977, and at time of submission to Joint Committee, it was clear there would be an increase.
 2. Joint Committee on Printing set effective date for wage rate increase on June 18, 1977. Under 44 U.S.C. § 305, such wages may not be changed more often than once a year. Although Joint Committee action occurred on August 4, 1977, since wages paid actually changed on June 18, 1977, the earliest date on which next wage adjustment may occur is June 18, 1978.

By a letter dated September 7, 1977, Mr. Thomas F. McCormick, the Public Printer, requested our decision concerning an adjustment in the rate of pay of certain journeymen employees of the Government Printing Office. An increase in the wage rate for those employees was approved by the Congressional Joint Committee on Printing on August 4, 1977. Since the effective date of the increase was approved by the Joint Committee to be June 18, 1977, the Public Printer has inquired as to his authority to adjust the pay of the affected employees for the period between June 18 and August 3, 1977.

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The rate of pay for journeymen craftsmen employed by the Government Printing Office is established pursuant to 44 U.S.C. § 305(a) (1970), which provides as follows:

"(a) The Public Printer may employ journeymen, apprentices, laborers, and other persons necessary for the work of the Government Printing Office at rates of wages and salaries, including compensation for night and overtime work, he considers for the interest of the Government and just to the persons employed, except as otherwise provided by this section. He may not employ more persons than the necessities of the public work require nor more than four hundred apprentices at one time. The minimum pay of journeymen printers, pressmen, and bookbinders employed in the Government Printing Office shall be at the rate of 90 cents an hour for the time actually employed. Except as provided by the preceding part of this section the rate of wages, including compensation for night and overtime work, for more than ten employees of the same occupation shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing. When the Public Printer and the committee representing a trade fail to agree as to wages, salaries, and compensation, either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final. The wages, salaries, and compensation so determined are not subject to change oftener than once a year."

Thus, the statute directs that when the compensation of more than 10 employees of the same occupation is affected,

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a conference is to convene between the Public Printer and a tradesman's committee to determine the rate of wages. In order to be effective, any agreement reached by the parties at the conference must be approved by the Joint Committee on Printing. Where, however, no agreement is reached, either party may appeal to the Joint Committee, and the decision of the Joint Committee is final.

In the present case, the Public Printer wrote on June 8, 1977, to the Joint Committee on Printing, recommending wage increases for journeymen ranging from \$.49 to \$.62 per hour, effective June 18, 1977. That letter stated that a wage conference had been concluded and that two of the affected trades had rejected the Printer's offer. On July 11, 1977, the Council of Crafts of the Government Printing Office, representing the affected employees, appealed to the Joint Committee the Public Printer's wage recommendations. The Council's brief indicated that the various crafts had voted on June 10, 1977, to reject the Printer's wage offer. On August 4, 1977, the Joint Committee approved a wage increase effective June 18, 1977, stating in a letter to the Public Printer:

"This is to inform you that the Joint Committee on Printing approves the wage rate increases and the effective date of June 18, 1977 proposed by you in your letter dated June 8, 1977."

In requesting our decision, the Public Printer has questioned whether he has the requisite authority to adjust the rate of pay of the affected employees between June 18 and August 3, 1977. In particular, he contends that our decisions in B-106475, November 15, 1951, and B-170113, July 13, 1970, hold that retroactive increases in compensation may not be made in the absence of specific language in a statute so providing, and that 44 U.S.C. § 305 did not provide such authority.

The decisions cited by the Public Printer, however, involved unilateral administrative attempts to confer upon certain employees of the Government Printing Office the

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benefit of statutory increases in compensation accruing to other employees. Those decisions did not involve the approval or appellate jurisdiction of the Joint Committee on Printing under 44 U.S.C. § 305. Thus, we held in B-106475, supra, that a unilateral retroactive increase could not be made, stating that:

"When an employee has been paid the compensation lawfully fixed for his services by the head of an agency he is not legally entitled to claim more and the Government's obligation in the matter is fully satisfied. Payment to him of an additional amount solely upon an administrative determination that he is justly entitled thereto would be tantamount to granting him a gratuity or involve the exercise of a power which the Congress generally has reserved to itself."

Since, however, the wage increase in the present case was established by the Joint Committee after the parties were unable to agree in conference to the exact amount of the increase, this case is governed by our decisions in B-183083, November 28, 1975, and 55 Comp. Gen. 1006 (1976). In B-183083, we held that an agency and a union may agree in advance on an effective date to implement a negotiated wage increase, even though the exact amount had not yet been determined, so long as the effective date is set no earlier than the date of the preliminary agreement setting that date. Similarly, we held in 55 Comp. Gen. 1006 that an arbitrator may set the effective date of a wage increase provided that such date is no earlier than the date the parties reached an impasse or the date arbitration is requested. In such cases, the requirement of final action by a competent wage-fixing authority is not violated because all parties concerned knew that future liabilities would be incurred at the new wage rate. Further, since current compensation is seen as an advance against the new rate, the subsequent payment of wages at the ultimately determined rate is a supplemental payment rather than the gratuity described in B-106475, supra.

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In the present case, the Public Printer proposed on May 31, 1977, a wage increase for all of the crafts concerned. On June 10, 1977, the Council of Crafts, seeking further increases, rejected the offer, thus creating an impasse. Under 44 U.S.C. § 305, an appeal by either party may be taken to the Joint Committee on Printing when they are unable to agree. Since an impasse was reached at the time when Council of Crafts forwarded its brief to the Joint Committee on July 11, 1977, the Council's action was clearly an appeal. Under 44 U.S.C. § 305, the decision of the Joint Committee upon appeal is final. Such a determination is not unlike that of an arbitrator as contemplated in our decision at 55 Comp. Gen. 1006, supra. Since under our decision in that case, an arbitrator may set an effective date no earlier than the date of impasse, which in the present matter was June 10, 1977, and since all parties concerned knew at that time that the wage rate would be increased, the Joint Committee properly set the effective date as June 18, 1977. The Public Printer, therefore, may rely upon the action of the Joint Committee taken pursuant to 44 U.S.C. § 305 as constituting the authority necessary to adjust the pay of the affected journeymen employees between June 18 and August 3, 1977.

Regarding the earliest date on which the pay rate may next be adjusted, 44 U.S.C. § 305 provides that:

"The wages, salaries, and compensation so determined are not subject to change oftener than once a year."

Although the Joint Committee approved the wage rate increase on August 4, 1977, the effective date thereof was June 18, 1977. Since the wages actually paid to the employees thus changed on that date, June 18, 1978, is the first date on which the next wage adjustment may be made.

Deputy

R. F. K. 112
Comptroller General
of the United States



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

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November 11, 1977

The Honorable Howard W. Cannon
Chairman, Joint Committee on Printing
United States Senate

Dear Mr. Chairman:

Further reference is made to your letter dated September 30, 1977, concerning the legality of implementing certain wage adjustments for employees of the Government Printing Office.

By our decision of today, B-190097, we have determined that the Public Printer may adjust the pay of the affected employees for the period between June 18 and August 3, 1977. A copy of that decision is enclosed for your information and records.

Sincerely yours,

Deputy

Ray K. Miller
Comptroller General
of the United States

Enclosure



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

Wm. Handcock
CP

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Deputy

Ray Kellam
Comptroller General
of the United States

Enclosure