



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kathleen Pinette and Warner J. Rhodes -
Temporary Duty Travel Outside CONUS -
Reasonable Rest Period at Destination

File: B-241953.2

Date: October 9, 1992

DIGEST

When an intermediate rest stop is precluded or not authorized for travel beginning or ending outside CONUS (the 48 contiguous states and the District of Columbia), the FTR, 41 C.F.R. § 301-7.11(e) (1991), permits agencies to schedule the arrival time at the temporary duty point to allow a reasonable rest period before reporting for duty. In the exercise of its sound discretion an agency may allow an additional rest period at destination when an employee is scheduled to arrive too late at night to permit adequate rest before reporting for duty. We will not overturn an agency's action unless it is unreasonable or an abuse of discretion. Thus, where two employees flew directly from Alaska to CONUS arriving late at night, an agency's allowance of an additional rest period before reporting for duty is upheld as reasonable.

DECISION

This decision is in response to a request from an Authorized Certifying Officer, Federal Aviation Administration (FAA), Department of Transportation.¹ It concerns the entitlement of two employees to be paid per diem for additional rest periods at destination incident to temporary duty travel from Anchorage, Alaska, to separate locations in the continental United States. For the following reasons, we conclude that the employees may be paid per diem for the authorized periods of additional rest before reporting for duty.

BACKGROUND

The first situation involves travel by Ms. Kathleen Pinette, an employee of the FAA stationed in Anchorage, Alaska. She

¹Ms. Claudia Hoversten, Manager, Accounting Branch, AAL-42.

was authorized temporary duty travel to Oklahoma City, Oklahoma, for training from August 21 to September 4, 1991, with travel to begin on or about August 19, 1991. Her travel orders noted that she was to be scheduled to arrive at her destination with sufficient time to allow a reasonable rest period before reporting for duty.

According to her itinerary, she left Anchorage at 8:10 a.m., Alaska time, on August 19, 1991, and arrived in Oklahoma City at 10:07 p.m., central time, the same day. The elapsed time for that scheduled travel was 12 hours. Although she was not required to report for duty until the morning of August 21, the official who authorized her travel orders believed that the 1-day early arrival at Oklahoma City was reasonable as a rest period prior to her beginning duty. However, the Certifying Officer paid her on a constructive basis as though she had traveled at the same time on August 20, on a finding that there was no authority to pay per diem for rest periods in excess of 24 hours.

The Certifying Officer points out that Ms. Pinette could have departed Anchorage at 1:30 a.m., Alaska time, on August 20, 1991, and arrived at Oklahoma City 12:35 p.m., central time, the same day. However, the Certifying Officer questions the reasonableness of requiring employees to begin travel between midnight and 6 a.m., just so that they will arrive at their destination within 24 hours of their reporting for duty.

The second situation involves travel by Mr. Warner J. Rhodes, who is also an FAA employee stationed in Anchorage. He was authorized temporary duty travel to Washington, D.C., to attend a meeting which was to begin on the morning of October 22, 1991. Although the scheduled travel time from Anchorage to Washington did not exceed 14 hours, Mr. Rhodes's travel orders authorized him a 1-day rest stop en route.

Mr. Rhodes began his travel from Anchorage at 7 a.m., Alaska time, on October 20, 1991. However, instead of utilizing the authorized rest stop en route, he flew straight through to Washington, arriving there at 11:55 p.m., eastern time, the same day. This schedule provided him with an additional rest period of 24 hours at destination. While that same flight schedule was available to him for travel on October 21, 1991, the only other way he could have arrived within 24 hours of the start of the meeting would have been for him to use a flight scheduled to leave Anchorage between 1 a.m. and 2 a.m. Alaska time, on August 21, 1991. Had he used that flight, he would have arrived in Washington at approximately 5:30 p.m., eastern time, the same day. The voucher was paid based on the actual travel because the agency did not believe that Mr. Rhodes should be required to

begin travel after midnight just to have him arrive earlier in the day before reporting for duty.

OPINION

The provisions of the Federal Travel Regulation (FTR) regarding payment of per diem for permissible rest periods, when travel outside the continental United States (CONUS)² is involved, are found in section 301-7.11(a)-(e) of the FTR.³

The basic conditions which must be met in order for an employee to be authorized a rest stop while en route to or from a temporary duty location are stated in section 301-7.11(a) of the FTR, as follows:

"(a) When travel is direct between authorized origin and destination points which are separated by several time zones and either the origin or destination point is outside CONUS, a rest period not in excess of 24 hours may be authorized or approved when air travel between the two points is by less-than-premium-class accommodations and the scheduled flight time, including stopovers, exceeds 14 hours by a direct or usually traveled route."

Under that provision, several time zones and a scheduled flight time in excess of 14 hours are the minimum requirements which must be met before a rest stop en route may be authorized. In Mr. Rhodes's case, although his travel involved several time zones, he did not qualify for a rest stop en route since his scheduled flight time did not exceed 14 hours. Hence, it was improper to authorize a rest stop in his travel orders. Likewise, the scheduled flight time in Ms. Pinette's case was less than 14 hours.

The only rest period they qualified for is the one at destination permitted under section 301-7.11(e) of the FTR. Those provisions state in part:

"(e) When . . . an intermediate . . . rest stop is not authorized, it is recommended that the employee be scheduled to arrive at the temporary duty point with sufficient time to allow a reasonable rest period before reporting for duty."

²CONUS is defined to mean the 48 contiguous states and the District of Columbia. 41 C.F.R. § 301-7.1(b)(2) (1991).

³41 C.F.R. § 301-7.11(a)-(e) (1991).

The agency paid the voucher based on the early arrival in Mr. Rhodes's case, but disallowed per diem for the early arrival in Ms. Pinette's case because the certifying official in that case found no authority for a rest period of more than 24 hours. Because this issue is a major area of concern for employees stationed in Alaska, the FAA asks us for our interpretation of reasonable rest periods.

We have endeavored to interpret the rest period regulation to allow agencies a broad degree of flexibility in applying its provisions to widely varying arrival times depending on origin and destination points and airline schedules.⁴ As stated above, a rest stop en route may not exceed 24 hours and may only be allowed if the scheduled flight time, including stopovers, exceeds 14 hours. FTR § 301-7.11(a). However, FTR § 301-7.11(e) recommends that agencies schedule a "reasonable" rest period at destination when a rest stop either is precluded by carrier schedules or is not authorized.

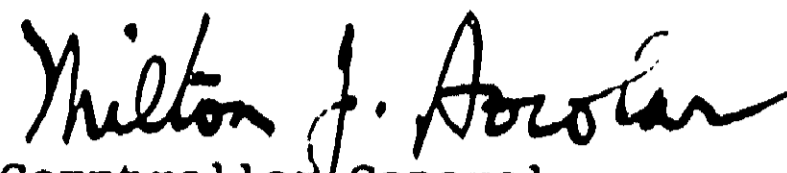
The word "reasonable" connotes flexibility and the exercise of sound judgment in scheduling rest periods and, in our opinion, permits an agency in its discretion to determine what is a reasonable rest period at destination before an employee is required to report for duty. We will not substitute our judgment for that of the agency. Unless the agency's action is clearly unreasonable or represents an abuse of discretion, we will not overturn an agency's determination as to a reasonable rest period at destination.

These two cases illustrate why agencies should have discretion to determine what is an adequate rest period at destination. We agree with FAA that employees should not be required to begin travel after midnight in order to have them arrive early in the day before reporting for duty. We have said that employees are not expected to travel during normal periods of rest. 54 Comp. Gen. 1059, 1061 (1975). We also agree that, if the employees in this case had left early in the morning of the day before reporting for work, their respective arrival times late at night would not have given them a sufficient period of rest before reporting for work. The authorizing officials felt that both of these alternatives were unreasonable, and accordingly each employee was allowed to start travel a day earlier in order to permit a reasonable period of rest before reporting for duty.

We conclude that the rest periods authorized for Ms. Pinette and Mr. Rhodes were within the limits of reason and not

⁴See Karels and Lynch, 70 Comp. Gen. 656 (1991).

excessive. Accordingly, we would not object to the payment of per diem to both employees for the rest periods permitted at destination.

for 
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of the United States