

DIGEST

L-CF



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

B-177057

JAN 23 1973

Ms. Lola E. Rowe  
Chief, Branch of Personnel Operations (B)  
Office of the Secretary  
United States Department of the Interior

Dear Ms. Rowe:

This refers to the claim of \_\_\_\_\_ for payment of 72 hours of unused annual leave and for 25 hours of compensatory time allegedly forfeited at time of separation. You furnished a report on the claim by letter dated August 24, 1972.

The record shows that Mr. \_\_\_\_\_ was separated from his position as an employee of the Trust Territory of the Pacific Islands on June 25, 1971, due to a reduction in force. Mr. \_\_\_\_\_ states that on April 2, 1971, a letter of separation was forwarded to him. He also states that he was aware at that time of the regulation limiting annual leave payable to 45 days. However, when he checked with the Marshalls District Personnel as to the status of annual leave that he had accumulated above 45 days, he was allegedly advised by the Headquarters Personnel Department in Saipan that he would be paid for all annual leave on the books the first pay period after his separation if it did not extend into the next calendar year. He also states that he checked this ruling on June 10, 1971, with the Assistant Personnel Director at Saipan who allegedly told him that if he had been informed by the Personnel Director that he would be paid for all his annual leave then such must have been correct. Mr. \_\_\_\_\_ claims that in reliance on this he did not use his excess leave, which the record shows to be 72 hours, and as a result it was forfeited at the time of his separation. He requests an extension of the date of his separation so that he may be paid for the excess annual leave on the basis that it was agency policy to notify employees that they had to either use annual leave or lose it and that he was not so notified.

The High Commissioner of the Trust Territories of the Pacific Islands, in his letter of August 7, 1972, states that it is the standard practice of their personnel office to notify separating employees that excess annual leave and compensatory time will be lost if not used prior to separation. However, they will not refute Mr. \_\_\_\_\_ contention that he was misinformed and they are willing to admit that, possibly, they were in error.

Since an employee ordinarily would not willingly forfeit annual leave, it is concluded in view of the above statement that Mr. \_\_\_\_\_ separation was effected without advance notice of a possible forfeiture. This

peb

B-177057

was contrary to agency policy designed to assure use of current annual leave before separation, and therefore such separation would appear to be ineffective. See B-175419, October 25, 1972, copy enclosed. Accordingly, we would not object to Mr. restoration to the rolls and a change in the effective date of his separation for the purpose of permitting payment for 72 hours of current accrued annual leave in his account as of June 25, 1971, together with the accruals therein incident to an extension of his pay status. We base this 72 hours calculation on the enclosed telegram dated November 18, 1972, to the Department of the Interior from the Director of Personnel, Trust Territory of the Pacific Islands. Appropriate adjustments should also be made in the severance pay.

With respect to unused compensatory time, the record shows that at the time the 61 hours were recorded in Mr. leave account, i.e., the pay period ending February 20, 1971, he was advised that he had to use such within the following 4 pay periods in order to avoid forfeiture, as provided by the applicable regulations. Mr. used only 36 hours of this time and therefore forfeited the remaining 25 hours at the end of the fourth pay period, April 17, 1971. Inasmuch as the compensatory time was forfeited prior to the separation date there was no basis for consideration of such time as having been to Mr. credit at time of separation.

The enclosures forwarded with your report of August 24, 1972, are returned.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States

Enclosures