**DECISION**

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

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FILE: B-178272

DATE: JUL 28 1976

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MATTER OF: Ransy C. Adkins, et al. - Compensation for travel to and from official duty station.

DIGEST: Employees of Army Corps of Engineers were transported to and from official duty station via Government tender boat at no expense to employees. Travel was performed immediately prior to and at finish of regularly scheduled hours of work. Since no work-related duties were performed by employees during travel and travel was not undertaken under arduous conditions, employees are not entitled to either regular or overtime compensation for such travel.

This action is a consideration of the appeals made by 14 similarly-situated employees of the Department of the Army, Corps of Engineers, Savannah District, from settlements of our Transportation and Claims Division (now Claims Division) dated October 25, 1972. The claimants and their claim numbers are as follows: Ransy C. Adkins (Z-2468420); James C. Anderson (Z-2468421); Ratchford P. Buckner (Z-2468424); Henry B. Cowart (Z-2468426); Ovid Fiveash (Z-2468427); Marion Fripp (Z-2468428); Clyde V. Godwin (Z-2468429); Robert Grayson (Z-2468430); Willie Green (Z-2468431); John Holmes, Jr. (Z-2468433); John W. Horton (Z-2468435); George H. Timmerman (Z-2468439); James R. Waters (Z-2468440); and John R. Hunter (Z-2486323). The October 25, 1972, settlements disallowed claims for overtime compensation for time spent in travel between a designated landing site and the employees' official duty station, the U.S. Dredge HENRY BACON.

The submissions show that the claimants were employed in various capacities aboard the HENRY BACON. In order to reach their official duty station, the HENRY BACON, the employees were required to be at a specified landing site one hour before the commencement of their scheduled work assignments. They were transported from the landing site to the HENRY BACON by a Government tender boat at Government expense. At the finish of scheduled work assignments, the Government tender would return the employees to shore. The employees have received no compensation for the time spent traveling between the landing site and the HENRY BACON nor for the return trip.

The claimants base their claims for overtime compensation upon section 6101(b)(2), title 5, United States Code (1970), which states:

"To the maximum extent practicable, the head of an agency shall schedule the time to be spent by an employee in a travel status away from his official duty station within the regularly scheduled workweek of the employee."

We wish to point out, however, that 5 U.S.C. § 6101(b)(2) is not an absolute mandate as to the scheduling of travel. Travel need be scheduled within an employee's regular duty hours only "to the maximum extent practicable." 53 Comp. Gen. 882, 886 (1974). The Army Corps of Engineers could properly have determined that it was necessary to perform travel during nonduty hours and that the employees would not be paid overtime. 5 C.F.R. § 610.123 (1972).

Overtime compensation for wage board employees is to be computed in accordance with the provisions of section 5544, title 5, United States Code (1970). Section 5544(a) provides in pertinent part as follows:

"* * * Time spent in a travel status away from the official duty station of an employee subject to this subsection is not hours of work unless the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively."

Our Office has held that the criteria set forth in section 5544(a) are applicable only to time spent in a travel status away from the official duty station of the employee and that they do not apply to the situation of an employee whose travel is between his residence and the official duty station. B-173103, November 16, 1971. Moreover, no evidence has been presented to show that the claimants were required to perform duties for the Army Corps of Engineers or that travel to and from the HENRY BACON was carried out under arduous conditions.

Previous Comptroller General decisions have firmly established the rule that travel time alone, without the performance of actual duty, outside the regularly scheduled hours of work does not entitle an employee either to regular compensation or overtime compensation for the time so spent. See, for example, B-157036, July 22, 1965, and 40 Comp. Gen. 439 (1961). In 31 Comp. Gen. 362 (1952) we held the rule to be applicable even though the assigned duties were to be performed during normal duty hours and required travel outside the basic workweek.

The principle enunciated above has also been applied by the United States Court of Claims. The Court of Claims in Ahearn v. United States, 142 Ct. Cl. 309 (1958), determined that travel of a Government employee to his permanent duty station via a Government-owned boat was not to be considered work for overtime purposes. The Ahearn Court stated, "We think the time spent in this travel is no more compensable than the time spent by any employee in going from his home to his work." More recently, the Court of Claims, in Ayres v. United States, 186 Ct. Cl. 350 (1968), denied compensation for time spent traveling to and from work on board Government-furnished boats on the basis that the travel involved neither work while traveling nor was it undertaken under hazardous conditions.

In those cases where payment of overtime compensation for travel time has been authorized by decisions of this Office, the circumstances of the travel were so unusual as to warrant the conclusion that such travel was an inherent part of and inseparable from the "work" or "employment" within the meaning of the applicable overtime statute. See, for example, 43 Comp. Gen. 273 (1963). Such unusual circumstances are not present in the instant claims.

Although claimants have based their claims solely upon 5 U.S.C. § 6101(b)(2), we note that the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq. (Supp. IV, 1974), as amended, is not applicable to the claims in question since the claims are all for overtime for periods prior to May 1, 1974, the effective date of the Fair Labor Standards Amendments of 1974. However, it is our opinion that such travel would not entitle the claimants to overtime compensation even if the travel were performed after May 1, 1974, and the claims were made under the FLSA. A case in the Fourth Circuit, Ralph v. Tidewater Construction Corp., 361 F. 2d 806 (1966), supports this view. The Court in the Ralph case found that time spent by employees in boats traveling to and from work sites located in the Chesapeake Bay was within the

purview of Portal-to-Portal Pay Act of 1947 provision, 29 U.S.C. § 254(a), which exempts travel to and from the actual place or performance of the principal activity or activities which such employee is employed to perform. Thus, the employees were found not to be entitled to overtime compensation under the FLSA for such travel.

Accordingly, the settlements dated October 25, 1972, by our Transportation and Claims Division denying the claims of the above-named employees for overtime compensation for travel time to and from the Dredge HENRY BACON are sustained.

R.F.KELLER

Deputy Comptroller General
of the United States