

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

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FILE: B-180864

DATE: JUN 4 1975

MATTER OF: Roy J. Rossell - Hazard pay for wage grade employee

DIGEST: Wage grade employee of the Department of the Army appealed denial of his claim for hazard pay. His claim was denied on basis that 5 U.S.C. § 5545(d)(1970) only provides hazard pay for classified, not wage grade, employees. The basis for denying employee's claim was incorrect as Federal Personnel Manual Supplement 532-1, § S8-7f (May 20, 1971) directs payment of environmental differential to wage grade employees performing hazard duty classified in Appendix J of FPM Supplement 532-1 and employee's entitlement under this provision was not considered. However, the Department of the Army now reports that employee's duties as stock parts keeper did not entail hazard duty and therefore employee's claim must still be denied.

This action is at the request of Mr. Roy J. Rossell who seeks reconsideration of our decision B-180864, June 26, 1974, concerning his claim for back wages and hazard pay believed due incident to his employment with the Department of the Army.

The record shows that Mr. Rossell, a wage grade employee, was employed by the Department of the Army in the Color Developing Unit, Army Pictorial Center, Long Island, New York. Mr. Rossell filed a claim with the General Accounting Office by letter of May 21, 1973, for the salary loss caused by his being reduced in grade and for hazard pay believed due him because of his work with chemicals in developing color photographs. Mr. Rossell's claim for 25 percent hazard pay covers the period from January 15, 1967, through November 10, 1971.

On January 28, 1974, our Transportation and Claims Division disallowed Mr. Rossell's claim arising from his reduction in grade as well as his claim for hazard pay. Subsequently, in our decision B-180864, June 26, 1974, we acknowledged the Government's liability to Mr. Rossell for his reduction in grade but we did not address his separate claim for hazard pay. By letter of July 5, 1974, Mr. Rossell reasserted his entitlement to hazard pay.

Our Transportation and Claims Division denied Mr. Rossell's claim for hazard pay on the basis that 5 U.S.C. § 5545(d) (1970),

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which grants an entitlement to hazard pay under schedules established by the Civil Service Commission, applies only to classified employees and specifically excludes wage grade employees from such entitlement. While it is correct that wage grade employees are not entitled to hazard pay under the provisions of 5 U.S.C. § 5545(d) (1970), an environmental differential is duly authorized for wage grade employees by Federal Personnel Manual (FPM) Supplement 532-1, § S8-7f (May 20, 1971). Effective the first pay period after November 1, 1970, an agency is required to pay a prevailing rate employee an environmental differential when he performs hazard duty listed in Appendix J of FPM Supplement 532-1. FPM Letter No. 532-17, August 5, 1970. B-180206, July 16, 1974. Since the payment of an environmental differential under the above section is mandatory, we requested the Department of the Army to consider whether Mr. Rossell had performed hazard duty as described in Appendix J of FPM Supplement 532-1.

In its report dated April 7, 1975, the Department of the Army stated that Mr. Rossell was a stock parts keeper from November 1, 1970, to November 10, 1971, the period of time that Mr. Rossell could have been entitled to an environmental differential under FPM Supplement 532-1, section S8-7f, May 20, 1971. The report states further:

"The duties of a stock parts keeper (the position which Mr. Rossell held until his retirement from the service) were evaluated in relation to the guidelines set forth in Appendix J of the Federal Personnel Manual Supplement 532-1, for entitlement to environmental differential, and, determined that Mr. Rossell, as a stock parts keeper was in no wise exposed to, or working with the types of developing chemicals and agents which would entitle him to the environmental differential. A copy of his job description for the stock parts keeper position (WG-06904-03) is not contained in his 201 File. However, from the SF50 Personnel Form (Inclosure 1), it appears that during his final year at the Army Pictorial Center, Mr. Rossell worked in a stock and parts room and was not actively exposed to any developing chemicals and agents that may have been stored therein. Further, when considering the protective facilities of the containers and cartons which practically eliminate any hazard, packaged photographic chemicals present no hazard entitling an employee to environmental differential pay.

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"FPM Supplement 532-1 (S8-7f) provides for the payment of environmental differential to wage grade employees when the employees are performing assigned duties which expose them to an unusually severe hazard, physical hardship or working condition listed in Appendix J to the said Supplement.

"Considering the foregoing, determination was made that Mr. Rossell is not entitled to the environmental differential (hazardous pay)."

It is clear from the above report that since Mr. Rossell has not performed hazard duty during the applicable period, he is not entitled to environmental differential pay. The disallowance of Mr. Rossell's claim for hazard pay is sustained.

R.F.KELLER

Deputy

Comptroller General
of the United States