



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

Released 150

B-188882

NOV 3 1977

The Honorable Thomas P. O'Neill, Jr.
House of Representatives

Dear Mr. O'Neill:

This is in response to your inquiry on behalf of your constituent, [REDACTED], USAFR, who has claimed he is entitled to per diem for certain periods he served on active duty.

[REDACTED] was originally ordered to active duty for the period of July 2, 1975, through September 27, 1975, at Headquarters, Air Force Communications Service, Richards-Gebaur Air Force Base, Missouri. His tour was extended a number of times, each extension being for a period of less than 20 weeks. However, the total length of time he served was approximately 65 weeks. Throughout his period of service he was stationed at Richards-Gebaur and performed the same duties. He was paid per diem for over 400 days and also transportation expenses for his round-trip travel to Richards-Gebaur. He has claimed he is also entitled to per diem for 32 additional days.

Nothing in the materials in our possession relating to this case clearly indicates the reasons for the various extensions of [REDACTED] tour of active duty. However, the finance officer who requested that we rule on [REDACTED] entitlement to per diem expressed the opinion that " * * * the allocation of man days may have been the driving force behind the issuance of multiple orders for less than 20 weeks rather than the anticipated period for which clerical help was required. He noted that the requests for extensions of [REDACTED] tour do not refer to unforeseen circumstances requiring these extensions, but, rather, always use the same justification for requesting his services and imply an ongoing need for clerical support.

Under 37 U.S.C. § 404(a)(4) (1970), a member of a uniformed service is entitled to travel and transportation allowances, in accordance with regulations prescribed by the Secretaries concerned, when away from home to perform duty.

The regulations promulgated pursuant to this provision that govern the payment of per diem to a reservist ordered to active

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duty in circumstances such as those of the instant case, are found in paragraph M6000 of Volume 1 of the Joint Travel Regulations (1 JTR). Subparagraph 1c of that paragraph provides that when the period of active duty contemplated by the orders at one location is for less than 20 weeks, with certain exceptions inapplicable to the instant case, per diem, travel and transportation allowances are payable to the reservist in question in accordance with the applicable parts of chapter 4, 1 JTR. When such a period of active duty must be extended by another period of less than 20 weeks due to unforeseen circumstances, these allowances continue to be payable throughout the period of the extension. However, no per diem is payable from the date the reservist receives the extension order if the extension is not due to unforeseen circumstances and the total period on active duty is 20 weeks or more.

In our decision B-188882, issued August 23, 1977 (copy enclosed), which dealt with [REDACTED] claim, we held that because there was no clear indication of the reasons for the extensions of [REDACTED] period of active duty in the documents in our possession pertaining to his case, we could make no determination as to whether or not they constituted unforeseen circumstances, and, therefore, as to whether or not [REDACTED] was entitled to per diem for this period. We recommended that the payments already made to [REDACTED] be reviewed to determine what, if any, unforeseen circumstances were involved.

Accordingly, before [REDACTED] claim may be paid, the reasons for the extensions of his tour will have to be determined. The Air Force would appear to be the appropriate organization to undertake this.

We trust this serves the purpose of your inquiry. We have enclosed the documents you forwarded us, in accordance with your request.

Sincerely yours,

E. J. PETERSON
Acting Comptroller General
of the United States

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