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DECISION



911 V. Lopez
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-188955

DATE: November 23, 1977

MATTER OF: Vernon H. Moss III - Claim for overtime
while traveling

DIGEST: Deputy U.S. Marshal who normally worked evenings and nights on Sky Marshal duties, frequently was called to appear in court during the day. Claim for overtime compensation for traveltime from residence is denied since travel was not away from official duty station as required under 5 U.S.C. 5542(b)(2).

This action is in response to the appeal by Mr. Vernon H. Moss III, of the settlement issued September 20, 1976, by our Claims Division denying in part Mr. Moss' claim for overtime compensation while employed by the United States Marshals Service, Department of Justice.

The record indicates that Mr. Moss claimed overtime compensation for traveltime for the period January 27, 1971, through October 29, 1971, while employed as a Deputy U.S. Marshal. It appears that Mr. Moss was regularly assigned to perform Sky Marshal duties at the Los Angeles Airport, normally in the evenings or at night, and that frequently he would be required to appear in court in Los Angeles during the day in connection with other assigned duties. Mr. Moss' claim for 72 1/2 hours overtime compensation while traveling between his residence and court, the latter which is located within his official duty station, was denied by our Claims Division as not within the scope of 5 U.S.C. 5542 (Supp. V, 1975). On appeal Mr. Moss states that since the travel could not be scheduled or controlled administratively it should be compensable as overtime under 5 U.S.C. 5542(b)(2)(IV).

Section 5542(b)(2) of title 5, United States Code, sets out the circumstances under which an employee is entitled to overtime compensation for time spent in travel status as follows:

"(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless:


"(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

B-188955

"(B) the travel * * (iv) results from an event which could not be scheduled or controlled administratively." (Emphasis added.)

It appears from the record that Mr. Moss' duty station was designated as Los Angeles, and, therefore, his traveltime to court was not away from his official duty station, his designated post of duty the limits of which are the corporate limits of the city or town where the employee is stationed. See 52 Comp. Gen. 446 (1973). Therefore, Mr. Moss' claim for traveltime does not appear to be compensable under the provisions of 5 U.S.C. 5542(b)(2). See Mossbauer v. United States, 541 F.2d 823 (9th Cir. 1976).

Accordingly, we sustain the action of our Claims Division in disallowing Mr. Moss' claim for overtime compensation for traveltime.


Deputy Comptroller General
of the United States

UNITED STATES GOVERNMENT

M. Volpe
GENERAL ACCOUNTING OFFICE *Sp*

Memorandum

TO : Director, Claims Division

November 23, 1977

Deputy
FROM : Comptroller General *Prokett*

SUBJECT: Claim for overtime compensation for travel time - B-188955-O.M.

Returned herewith is file Z-2600643 forwarded for our consideration on April 27, 1977, along with a copy of our decision of today, B-188955, sustaining the Claims Division determination.

Attachments