

DOCUMENT RESUME

08030 - [C3468569]

**[Employee's Entitlement to Holiday Premium Pay]. E-192815.
December 7, 1978. 2 pp.**

**Decision re: Dewel P. Walters; by Robert P. Keller, Acting
Comptroller General.**

**Contact: Office of the General Counsel: Personnel Law Matters I.
Organization Concerned: Department of the Army: Fort Sheridan,
IL.**

**Authority: 5 U.S.C. 5545(c). -5 C.F.R. 550. 54 Comp. Gen. 662.
56 Comp. Gen. 551. B-189717 (1977).**

**A decision was requested concerning the entitlement to
holiday pay of an employee who is paid annual premium pay based
on his schedule of work requiring him to perform one 24-hour
shift each week. An employee receiving premium pay who works on
a holiday falling within his regularly scheduled tour of duty is
not entitled to holiday premium pay. He is also not entitled to
restoration of annual leave charged for holidays he did not
work. (RRS)**

DECISION

J. D. Mosher
Paul I
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

8529

FILE: B-192815

DATE: December 7, 1978

MATTER OF: Dewel P. Walters - Holiday premium pay

DIGEST: Employee receiving annual premium pay under 5 U.S.C. 5545(c)(1) (1970) at a rate determined in accordance with 5 C.F.R. 550.144(a) who performed work on holidays or was charged annual leave for holidays falling within his regularly scheduled tour of duty is not entitled to holiday premium pay or restoration of annual leave charged. 56 Comp. Gen. 551 (1977).

By letter dated September 5, 1978, Major Nenad Matich, FC, United States Army, a finance and accounting officer at Fort Sheridan, Illinois, requests an advance decision concerning the holiday pay entitlement of Mr. Dewel P. Walters. Mr. Walters has submitted a claim for holiday premium pay for work performed between November 1960 through October 1975 and for restoration of annual leave charged on holidays he did not work.

The claimant is fire chief at Fort Sheridan, Illinois, and is paid annual premium pay under the authority of 5 U.S.C. 5545(c)(1) (1970) based upon his schedule of work requiring him to perform one 24-hour shift each week. For work performed on the holidays falling within his regularly scheduled tour of duty between November 1960 through October 1975, Mr. Walters asserts that he received no compensation in addition to his annual premium pay or was charged annual leave if he took leave on the holiday which fell within his regularly scheduled tour of duty. He now claims holiday premium pay for such holiday work or restoration of annual leave charged based on the rationale of 54 Comp. Gen. 662 (1975).

The decision on which Mr. Walters relies, 54 Comp. Gen. 662 supra, was overruled by 56 Comp. Gen. 551 (1977). The latter decision addressed the question of charging annual leave for holidays to employees receiving premium compensation under 5 U.S.C. 5545(c)(1). That decision recognizes that where the rate of premium pay is determined in accordance with 5 C.F.R. 550.144(a) and without approval of a special rate by the Civil Service Commission based on a tour of duty excluding holiday work under 5 C.F.R. 550.144(b), the rate of premium pay is

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premised, in part, on the assumption that the employees will perform work on holidays falling within their regularly scheduled tours of duty. While holding that absence on a holiday within the regularly scheduled tour of duty of such employees should generally be charged to leave, that decision recognizes that employees receiving premium pay may nevertheless be excused from duty on holidays without a charge to leave where it has been administratively determined that their services are unnecessary. However, an employee whose services are administratively required and who absents himself on a holiday within his regularly scheduled tour of duty for personal reasons is to be charged annual or sick leave as appropriate. In so holding, we recognized that the need for holiday work on the part of certain categories of employees, such as firefighters, will render their excusal on holidays highly unlikely.

Consistent with our holding in 56 Comp. Gen. 551, supra, an employee receiving annual premium pay under 5 U.S.C. 5545(c)(1) at a rate determined in accordance with 5 C.F.R. 550.144(a) who works on a holiday falling within his regularly scheduled tour of duty is not entitled to holiday premium pay for such work inasmuch as his rate of annual premium pay includes consideration of the extent to which the duties of his position are made more onerous by holiday work requirements. See also B-189717, November 30, 1977.

Since the record does not indicate that Mr. Walters received a rate of pay determined other than in accordance with 5 C.F.R. 550.144(a), or an administrative excusal from duty without a charge to leave on holidays his claim for holiday premium pay for holidays worked and for restoration of annual leave charged during the period November 1960 through October 1975 is for disallowance.

P. K. 14
Acting Comptroller General
of the United States