

DECISION



18673⁴
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-201530

DATE: June 30, 1981

MATTER OF: Sunday premium pay - Employees at US
Army Communications Command, Detroit

DIGEST: Midnight shift employees at US Army
Communications Command, Detroit, whose
tour of duty is from 2345 Sunday to 0745
Monday are entitled to Sunday premium pay
for entire 8-hour period since there is
no requirement in 5 U.S.C. § 5546(a)
(1976) for performance of minimum period
of Sunday work as condition of entitlement
to premium pay benefits.

The Chief, Accounting and Finance Division, US Army Tank-Automotive Command, Warren, Michigan, has requested an advance decision whether seven general schedule civilian employees at the US Army Communications Command, Detroit, whose regularly scheduled tours of duty include duty from 2345 Sunday to 0745 Monday, are entitled to Sunday premium pay for that entire 8-hour period. The answer is yes.

The facts are as follows. The tour of duty of the midnight shift at the US Army Communications Command, Detroit, is from 2400 to 0800 6 days a week, and 2345 Sunday to 0745 Monday. The Sunday schedule was adjusted to ensure continuity of operations between the afternoon and midnight shifts. The midnight shift employees now are claiming entitlement to premium pay for the entire 8-hour period of duty beginning at 2345 Sunday. No Sunday premium pay has been paid to any of the employees.

Entitlement to Sunday premium pay is based on 5 U.S.C. § 5546(a) (1976), which provides:

"An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay."

The position of the Command has been that the regulation implementing the statute, 5 C.F.R. § 550.171 (1980), and the Standard Army Civilian Payroll System, Chapter 3, paragraph 3-6(f), authorize premium pay only for each complete

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hour of Sunday work. Section 550.171 of title 5 of the Code of Federal Regulations provides:

"An employee is entitled to pay at his rate of basic pay plus premium pay at a rate equal to 25 percent of his rate of basic pay for each hour of Sunday work which is not overtime work and which is not in excess of eight hours for each regularly scheduled tour of duty which begins or ends on Sunday."

In 46 Comp. Gen. 158 (1966), we considered the entitlement to Sunday premium pay of wage board employees who began their weekly tour of duty with an 8-hour shift from 11:30 p.m. Sunday through Monday morning, and ended it with a shift beginning at 11:30 p.m. Saturday through Sunday morning. In concluding that they were entitled to Sunday premium pay for both 8-hour periods under the similar authority for wage board employees now contained at 5 U.S.C. § 5544(a) (1980) we stated that there was no requirement for performance of a minimum period of Sunday work as a condition of entitlement to the premium pay benefits provided by that section. See 48 Comp. Gen. at 161, supra.

The regulation, 5 C.F.R. § 550.171, does not conflict with this interpretation of the statute. "Sunday work" is defined in 5 C.F.R. § 550.103(o) (1980) as:

"all work during a regularly scheduled tour of duty within a basic workweek when any part of that work is performed on Sunday." (Emphasis added.)

Thus, by using the phrase, "for each hour of Sunday work," 5 C.F.R. § 550.171, in accordance with the statute, authorizes payment for the entire tour of duty if any part occurs on Sunday.

Accordingly, the seven employees on the midnight shift at the US Army Communications Command, Detroit, are entitled to Sunday premium pay for their entire 8-hour tour of duty from 2345 Sunday to 0745 Monday.

Milton J. Forster

Acting Comptroller General
of the United States