



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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524913

OFFICE OF GENERAL COUNSEL

March 15, 1983

B-210650

Ms. Kathryne L. A. McKinney
3d Vice President
National Federation of
Federal Employees, Local 1900
Post Office Box 36
Denver, Colorado 80201

Dear Ms. McKinney

This responds to your request for guidance of your union local concerning action of the Department of Housing and Urban Development, in refusing to restore 8 hours of annual leave to the account of an employee who was in a "use-or-lose" leave status on December 27, 1982, when all Federal agencies in the metropolitan Denver area were closed for the entire day due to a blizzard.

You state the employee's leave period extended through January 8, 1983, the last day of the 1982 leave year. Because she was not charged annual leave as scheduled on December 27 when the agency was officially closed, she was required to forfeit the 8 hours she then had remaining in excess of the statutory annual leave ceiling of 240 hours. You state further that the Department of Housing and Urban Development and the Denver Regional Office of the General Accounting Office informed you that other Federal employees in the Denver area who were in a "use-or-lose" leave status through the end of the leave year were also required to forfeit excess leave that remained as a result of administrative closure of Federal agencies.

You indicate that the employee on whose behalf you have written feels that to require forfeiture of annual leave under these circumstances is unfair and has requested restoration of the 8 hours, since those employees whose "use-or-lose" leave periods were scheduled to end after December 27 but before the end of the leave year were not required to forfeit leave on account of the closure because there was time remaining in the leave year when the extra hours could be used.

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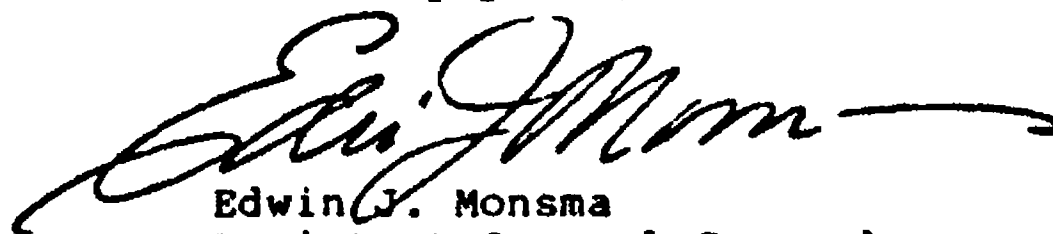
The following information should answer your question.

Section 6304 of title 5, United States Code, provides that employees must forfeit annual leave in excess of the maximum carryover allowed unless the forfeiture was caused by: 1) administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960; 2) exigencies of the public business when the annual leave was scheduled in advance; or 3) sickness of the employee when the annual leave was scheduled in advance.

In interpreting this statute the Comptroller General has held that it provides no authority to permit the use or restoration of excess leave forfeited because administrative leave was granted on the day the employee was scheduled to use that leave, because the forfeiture of leave in that instance is not covered by any of the exceptions therefor in the statute. Matter of Gualtieri, B-207139, September 29, 1982; Matter of Seymour, B-182549, August 22, 1975. However, when an employee is not charged with annual leave as previously scheduled because of agency closure, the leave remains to the credit of the employee to the extent that his leave balance does not exceed the statutory limit at the beginning of the next leave year. See Matter of Johnson, B-194432, October 16, 1980. Enclosed are copies of the cited decisions.

Under those decisions, it appears that the action of the agency in disallowing use or restoration of leave in excess of the statutory limit was proper.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Edwin J. Monsma', with a long horizontal flourish extending to the right.

Edwin J. Monsma
Assistant General Counsel

Enclosures