



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Galen Rex Quinn - Accrual of Military Leave

File: B-227222

Date: November 5, 1987

DIGEST

A civilian Federal employee, who is a member of the reserves, is entitled to accrue and carry over 15 days of military leave each fiscal year in spite of the fact that he did not request such leave and regardless of whether he was a member of an active or inactive reserve unit. The military leave statute, 5 U.S.C. § 6323 (1982), makes no distinction for accrual purposes between the employee's participation in an active or inactive reserve unit.

DECISION

The Associate Regional Director, United States Department of the Interior, National Park Service, Southeast Regional Office, requests a decision concerning an employee's right to accrue and carry over 15 days of unused military leave. For the reasons that follow, we hold that the employee is entitled to accrue and carry over such leave.

BACKGROUND

Mr. Galen Rex Quinn is a civilian employee of the National Park Service, Cape Lookout National Seashore, Beaufort, North Carolina. Mr. Quinn signed a Ready Reserve Service Agreement on January 30, 1984, and agreed to serve in the United States Marine Corps Individual Ready Reserve at the rank of Captain.^{1/} Mr. Quinn did not use any military leave in fiscal years 1984 and 1985, and he maintains that under the provisions of 5 U.S.C. § 6323 (1982), he was entitled to accrue and carry over 15 days of military leave each fiscal year, not to exceed 30 days of military leave. Mr. Quinn used 15 days military leave in fiscal year 1986, and he requested that an additional 15 days military leave be

^{1/} Mr. Quinn transferred to the National Guard in 1986; however, this fact is not relevant to our determination.

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credited to his account for fiscal year 1987. Mr. Quinn's request was denied by his agency on the basis that he did not request such leave in fiscal years 1984 and 1985 and on the basis that the Individual Ready Reserve is an inactive reserve unit with no requirement whatsoever for active duty. The information that the Individual Ready Reserve is an inactive reserve unit was furnished to the agency by the Adjutant's Office, Headquarters, Atlanta Marine Reserves, 4th Force Service Support Group.

OPINION

Military leave for civilian employees of the Federal Government is authorized by 5 U.S.C. § 6323 (1982), which provides in part:

"(a)(1) * * * an employee * * * is entitled to leave without loss in pay, time, or performance or efficiency rating for active duty or engaging in field or coast defense training under section 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard. Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year."

The military leave entitlement in 5 U.S.C. § 6323(a)(1), quoted above, only applies when an employee is on active duty for training. Thus, there is no authority to grant an employee military leave to attend weekend drills even though the employee is required to be absent from work. See 32 Comp. Gen. 363 (1953); Robert Voight, B-202654, July 31, 1981. See also Federal Personnel Manual Letter 630-30, April 23, 1982.


Although the employee must be on active duty in order to use military leave, there is no such distinction made in the statutory language for accrual. The statutory language refers to "Reserve of the armed forces or member of the National Guard." The Reserve components of the armed forces are named in 10 U.S.C. § 261(a) (1982), and the definition specifically includes the Marine Corps Reserve.

The only limiting provisions in the military leave statute which pertain to accrual are the maximum carryover provision of 15 days and the reduced rate of accrual for part-time career employees. See 5 U.S.C. § 6323(a)(2) (1982); 1980 U.S. Code Cong. & Ad. News 3871, 3872. Thus, the statute makes no distinction for accrual purposes between

the employee's participation in an active or inactive reserve unit. See Federal Bureau of Investigation - Military Leave, B-208706, August 31, 1983, where we held that the statutory authority for military leave made no distinction between voluntary and required active duty for training.

We also note that the agency may have misunderstood the information provided about Mr. Quinn's reserve status since his membership in the Ready Reserve required that he participate in scheduled drills and serve on active duty. See 10 U.S.C. § 270 (1982). In fact, Mr. Quinn's Ready Reserve Service Agreement states that he agrees to so participate. The record fails to show why Mr. Quinn did not participate in active duty training during fiscal years 1984 and 1985, but his reserve status at that time would be irrelevant in view of the fact that, as previously stated, he did not have to be in an active reserve unit in order to accrue 15 days military leave.

Accordingly, Mr. Quinn is entitled to accrue and carry over military leave to the extent it does not exceed 30 days in a fiscal year.

for 
Comptroller General
of the United States