



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Christopher Hahin - Overseas Travel - Per Diem -
Rest Stop - Overtime Compensation

File: B-233389

Date: June 23, 1989

DIGEST

1. An employee performed temporary duty travel to Saudi Arabia in 1981, and received limited per diem based on footnote 13 of Appendix A, Volume 2, Joint Travel Regulations. He claims additional per diem arguing that his situation was not addressed in that footnote, but was addressed in later changes to that footnote. The claim is denied because the regulation was applicable and was correctly applied. Subsequent changes in regulations made after his travel was completed do not affect his entitlements.
2. The travel orders of an employee who performed overseas temporary duty travel specified a 1-day rest stop in London outbound and permitted 2 days layover in Rome on the return trip. He claims per diem for the additional day in Rome based on those orders. The claim is denied. Under paragraph C4464-4 of Volume 2, Joint Travel Regulations, then in effect, rest stops of "a reasonable period" may be approved. The 1 day allowed as a rest stop on the outbound journey established it as a reasonable period for per diem purposes. The second day on the return trip was authorized to be taken as a matter of personal convenience to the traveler, not as a rest stop day.
3. An employee while in a travel status claims overtime compensation since another employee who allegedly worked the same hours received that pay. Overtime under 5 U.S.C. § 5542 is only payable when it is ordered, approved in writing, or induced by an official with authority to order or approve such overtime. In the absence of documentation showing such approval in the employee's case, overtime compensation may not be paid.

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DECISION

This decision is in response to a letter from Mr. Christopher Hahin requesting review of our Claims Group settlement Z-2864185, April 4, 1988, as clarified by letter of July 14, 1988, disallowing, in part, his claim for additional reimbursement for travel to Saudi Arabia in 1981, and for overtime compensation. On review, we conclude that our Claims Group settlement was correct.

BACKGROUND

Mr. Hahin, a civilian employee of the Corps of Engineers, Department of the Army, was ordered to perform temporary duty in Jidda and Jubail, Saudi Arabia, in February 1981. He was authorized an outbound en route rest stop in London and a return en route rest stop in Rome.

Following submission of his travel vouchers, the agency determined that Mr. Hahin was due \$331.61, having reduced his per diem while in Saudi Arabia because he occupied government quarters there, and limited his return rest stop per diem to 1 day.

Mr. Hahin disputed that agency determination, asserting entitlement to a higher rate of per diem while in Saudi Arabia and an additional day's per diem for the Rome rest stop. In addition, he claimed entitlement to overtime compensation while in Saudi Arabia.

Our Claims Group concluded based on the record that: (1) his per diem entitlement in Saudi Arabia was correctly settled based on footnote 13 of Appendix A, Volume 2, Joint Travel Regulations (2 JTR) in effect at the time of travel; (2) the travel regulations did not provide for per diem for any day a traveler delays travel for personal reasons; and (3) payment of overtime compensation could not be supported on the record.

On appeal, Mr. Hahin asserts that an incorrect per diem rate for Saudi Arabia was used in the calculation. He argues that his situation was not like that referred to in the then footnote 13 of Appendix A of 2 JTR, and points out that his type of situation is properly addressed in the current table in Appendix A of 2 JTR. He also argues that he was specifically authorized a 2-day layover in Rome. He contends that since neither day was taken as a leave day, per diem should be allowed for both. In support of his claim for overtime compensation, he contends that it is based on the fact that a fellow employee, who traveled with him and who allegedly

performed the same duty as he did, was paid 16 hours of overtime for the same hours he worked.

OPINION

The employee's entitlement to per diem while performing temporary duty in Jidda and Jubail, Saudi Arabia, is subject to footnote 13 of Appendix A, 2 JTR. Footnote 13 of that Appendix, which was in effect while Mr. Hahin was in Saudi Arabia (change 172, February 1, 1980) provides in part:

"13. On any day when quarters are furnished . . . and when at least two meals are available . . . a travel per diem allowance as specified . . . is payable"

Jidda and Jubail are specified in that footnote for per diem purposes at \$9 and \$6 a day, respectively. While Mr. Hahin points out that changes have been made to that appendix and relies on the tables currently in it, those changes occurred at least several years after he performed temporary duty in Saudi Arabia and thus are not applicable in his case.

With regard to Mr. Hahin's claim for per diem for the extra day in Rome, the regulations authorizing a rest stop at the time of his travel (2 JTR, para. C4464-4, change 156, October 1, 1978), provided in part:

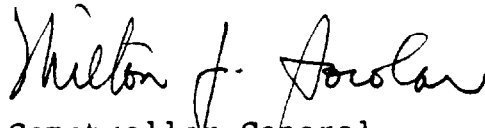
" . . . a rest stop en route may be authorized or approved. Transportation schedules and/or other conditions permitting, such rest stops should not exceed a reasonable period of rest plus delay necessary thereafter in securing the earliest onward transportation" (Emphasis added.)

A "reasonable period of rest" was established in Mr. Hahin's case when he was authorized a 1-day layover with per diem in London on the outbound leg of his journey. Therefore, he was only entitled to a 1-day layover with per diem in Rome on the return trip. While his agency permitted him an additional day's delay in Rome, the agency stated that it was for his personal convenience, and was not authorized as an official rest stop day.^{1/} Therefore, per diem is not payable for the second day in Rome.

^{1/} Ordinarily, a day taken as personal convenience during a workweek is charged to annual leave. There is nothing in the record to show whether or not it was charged against Mr. Hahin's leave balance prior to or at the time he left government service.

As to the matter of overtime compensation, Mr. Hahin was informed by our Claims Group that claims are settled by this Office based on the written record, with the burden placed on the claimant to establish the liability of the United States and the claimant's right to payment. In accordance with the provisions of 5 U.S.C. § 5542, overtime is not payable unless it is ordered, approved in writing, or induced by an official with authority to order or approve such overtime. While Mr. Hahin supplied a copy of a pay statement from another employee, who allegedly worked the same hours as Mr. Hahin, which shows that the other employee received overtime compensation, that document does not establish Mr. Hahin's entitlement to such pay. In the absence of such proof, Mr. Hahin is not entitled to overtime pay.

Based on the record before us, we conclude that Mr. Hahin's claim was correctly settled and that he is not entitled to additional payments.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States