



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

31070

E-178583

June 14, 1973

Colonel R. H. Neitz
Acting Commander
Defense Depot Mechanicsburg
Defense Supply Agency
Mechanicsburg, Pennsylvania 17055

Dear Colonel Neitz:

Your letter of March 37, 1973, requests advice as to whether Mr. Edgar L. Kingsborough may at this time have 199 hours of annual leave which was forfeited at the end of the 1972 leave year substituted for an equivalent number of hours of sick leave charged to him during that leave year. Mr. Kingsborough has been on sick leave since May of 1972 and we understand that he was to be separated for disability retirement in May of 1973. Your letter states that the forfeiture of 199 hours annual leave is the result of an administrative error, in which regard Mr. Kingsborough explains that he was not properly advised of the status of his annual leave account and that the substitution which he would otherwise have requested was not automatically made by your agency.

In general, annual leave which has been subject to forfeiture at the end of a prior leave year may not be retroactively substituted for sick leave for the sole purpose of avoiding that forfeiture. See Federal Personnel Manual, Chapter 630, subchapter 83-4. In 31 Comp. Gen. 524 (1952) we recognized, however, that absence due to illness may be charged to accrued annual leave if timely requested by the employee and approved by the administrative office concerned.

Where, as in Mr. Kingsborough's case, an employee's illness commenced a considerable period of time prior to the end of a leave year, thus precluding his use of accrued annual leave for purposes other than illness, we have presumed that if he had been advised of the state of his leave account he would have requested forfeitable annual leave to be applied to cover an equivalent period of absence prior to the close of that leave year. Where lack of knowledge of his leave balance is not attributable to any fault on the part of the employee, we have interposed no objection to the substitution of annual leave for an equivalent amount of sick leave, notwithstanding that such annual leave may have been regarded

[Substitution of Forfeited Annual Leave
for Charged Sick Leave]
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as forfeited at the end of a prior leave year. B-176098, July 10, 1972, copy enclosed.

In view of the circumstances of Mr. Kingsborough's illness and your indication that but for the administrative error the substitution of 199 hours of annual leave for sick leave would have been made during the 1972 leave year, we have no objection to that substitution now being made. If, upon receipt of this letter, Mr. Kingsborough has already been separated, he may of course be reentered to the rolls for the purpose of granting him the 199 hours of sick leave here involved.

Sincerely yours,

Paul B. Demeruti

For the Comptroller General
of the United States