



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

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B-179503

January 21, 1974

Mr. Richard W. Powell
Naval Ship Engineering Center
Prince George's Center
Hyattsville, Maryland 20782

Dear Mr. Powell:

This is in further reference to your letter of July 31, 1973, requesting reconsideration of the disallowance by our Transportation and Claims Division in Settlement Certificate dated June 29, 1973, of your claim for \$6.25-additional per diem allowance in connection with your trip to the Norfolk Naval Shipyard, Norfolk, Virginia, on December 11, 1972.

The record indicates that Naval Ship Engineering Center, Hyattsville, Maryland, issued Travel Order No. 300D9R on December 8, 1972, directing you to proceed to the Norfolk Naval Shipyard, Norfolk, Virginia, on or about December 11, 1972, for approximately 2 days temporary duty to participate in a technical audit of the conversion of the U.S.S. Independence (CVA-62). Pursuant to these orders you departed your official station at 1 p.m. and arrived at Washington National Airport at 2 p.m. You departed via commercial aircraft at 3:20 p.m. and arrived in Norfolk at 4 p.m. The Department of the Navy in processing your voucher, No. F3244, limited your per diem allowance for December 11, 1972, to 1/4 day or \$6.25 on a constructive travel basis as though you had taken a later commercial flight that departed Washington, D. C. at 7:45 p.m. and arrived in Norfolk at 8:45 p.m. The reason given by the Department for this limitation was that you had provided no evidence of official necessity requiring a departure earlier than that provided in the constructive travel schedule, which was considered reasonable for a trip of so short a distance. Our Transportation and Claims Division determined that the action of the Department of the Navy in requiring the later departure was apparently not unreasonable or arbitrary in view of the provisions contained in paragraph C 1051, Volume 2, Joint Travel Regulations (JTR), which state:

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"1. GENERAL. A traveler on official business will exercise the same care in incurring expenses and accomplishing a mission that a prudent person would exercise if traveling on personal business. Excess costs, circuitous routes, delays, or luxury accommodations unnecessary or unjustified in the performance of a mission are not considered acceptable as exercising prudence."

However, you contend that the beginning of your travel should have been permitted within your regularly scheduled hours of duty pursuant to 5 U.S.C. 6101(b)(2)—which states that travel should be scheduled within the regularly scheduled workweek to the maximum extent practicable—as implemented by paragraph C 1051-2, Volume 2, JTR. The JTR provides in pertinent part that:

"* * * To the maximum extent practicable, management will schedule, or allow scheduling of necessary travel time en route within an employee's regularly scheduled hours of duty in connection with official travel. When such scheduling is not practicable travel on an earlier or later workday to avoid travel on a non-workday or outside scheduled hours of duty solely for the convenience of the traveler will not be a basis for extending a period of official travel for per diem allowance or other travel status purposes * * *"

The Civil Service Commission regulation issued pursuant to 5 U.S.C. 6101(c) appears at 5 CFR 610.123 and provides:

"Insofar as practicable travel during nonduty hours shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under §550.112(e) of this chapter the official concerned shall record his reasons for ordering travel at those hours and shall, upon request, furnish a copy of his statement to the employee concerned."

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The above-quoted regulation places a responsibility on the official ordering nonduty hours travel to record his reasons justifying the requirement for such order, when---as in the present case---overtime travel is not involved. We interpret this provision as placing a burden on the administrative agency to show cause in the nature of a work related necessity why an employee is required to delay his departure until after his regularly scheduled duty hours. In this context, it is not enough for the agency to require the departure of the employee after duty hours on the basis that the distance involved in the trip is short.

In the instant case there is no evidence of record that a determination was made in accordance with the above-cited civil service regulation that it was essential that you travel during nonduty hours and that overtime could not be paid. Therefore, travel during your regularly scheduled duty hours appears to have been proper.

Accordingly, your travel voucher will be recomputed and a settlement will be issued in due course by our Transportation and Claims Division on the basis of the foregoing.

Sincerely yours,

R.F. KELLER

Deputy Comptroller General
of the United States