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DECISION



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

FILE: B-194821

DATE: April 24, 1980

MATTER OF: Roberta Sugar - [Pay for Holidays for
Part-time Employees]

DIGEST: Part-time employee of the Department of Agriculture, who was scheduled to work 4 hours on Monday, February 19, 1979, but did not work because of the Washington's birthday holiday, is only entitled to 4 hours of pay. Section 6104 of 5 U.S.C. provides that an employee is entitled to receive the same pay for a holiday that the employee would receive if the day were not a holiday and the employee worked.

This decision concerns the appeal of Ms. Roberta Sugar, a former part-time employee of the Department of Agriculture, Plum Island Animal Disease Center, from the disallowance by our Claims Division of her claim for four additional hours of pay for the Washington's birthday holiday, Monday, February 19, 1979. Ms. Sugar was scheduled to work 4 hours that day, but because of the holiday observance, she did not work. She was paid for 4 hours, but believes she should have been paid for 8 hours.

Ms. Sugar's claim was disallowed by our Claims Division on the basis of 5 U.S.C. § 6104 (1976) which provides as follows:

"Holidays; daily, hourly, and piece-work basis employees"

"When a regular employee as defined by section 2105 of this title * * * whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day--

* * * * *

"(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by Federal statute, Executive order* * *

he is entitled to the same pay for that day as for a day on which an ordinary day's work is performed."

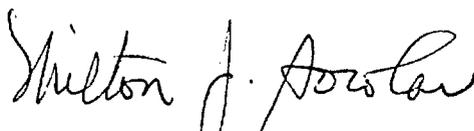
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This same concept has long been applied to monthly and per annum employees. See 45 Comp. Gen. 291, 292 (1965).

Ms. Sugar points out that other part-time employees who were scheduled to work 8 hours on the date in question received a full 8 hours of pay. She does not believe that because her 4 hour day happened to occur on a holiday she should be paid any differently than other part-time employees, who, like herself, were scheduled to work a 36-hour week.

We point out, however, that section 6104, quoted above, provides for pay on a holiday not worked on the same basis as if work had been performed on that day. The ordinary pay for Monday work for an employee whose scheduled Monday work is 4 hours would be 4 hours pay. Therefore, when Ms. Sugar did not work on Monday, February 19, 1979, because of that day being a holiday, she is entitled to only 4 hours of pay at the basic rate. See B-139345, May 25, 1959.

Accordingly, the disallowance of Ms. Sugar's claim is sustained.


Acting Comptroller General
of the United States