

DOCUMENT RESUME

02928 - [A2163279]

[Sunday Premium Pay]. B-189113. August 2, 1977. 3 pp.

Decision re: Eric Parker; by Robert P. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Federal Aviation Administration; Professional Air Traffic Controllers Association.

Authority: 5 U.S.C. 5546(a). 46 Comp. Gen. 337. B-185022 (1976).

William B. Poer, General Counsel for the Professional Air Traffic Controllers Organization, requested a decision on the claim of an employee of the Federal Aviation Administration (FAA) for Sunday premium pay. The employee's regularly scheduled tour of duty was from midnight Saturday to 8 a.m. Sunday. Daylight savings time began during the tour of duty, and the employee was allowed to work until 9 a.m. so as to work the full 8-hour tour of duty. FAA refused to pay Sunday premium pay for the hour from 8 a.m. to 9 a.m. The claim for Sunday premium pay could be paid for the entire 8-hour tour of duty, including the hour from 8 a.m. to 9 a.m. (Author/SC)

3279

02928

IANNICELLI  
Civ. Per.



**DECISION**

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

**FILE:** B-189113

**DATE:** August 2, 1977

**MATTER OF:** Eric Parker - Sunday premium pay

**DIGEST:** FAA employee's regularly scheduled tour of duty was from midnight Saturday to 8 a.m. Sunday. Daylight savings time began during tour of duty, and, therefore, employee was allowed, pursuant to provision of contract between FAA and union, to work from 8 a.m. until 9 a.m. so as to work full 8-hour tour of duty. FAA refused to pay Sunday premium pay for the hour from 8 a.m. to 9 a.m. Claim for Sunday premium pay may be paid for entire 8-hour tour of duty, including hour from 8 to 9 a.m. 5 U.S.C. § 5546(a) (1970).

This action is in response to a request of May 12, 1977, from Mr. William B. Pear, General Counsel, Professional Air Traffic Controllers Organization (PATCO), for a decision on the claim of Mr. Eric Parker for Sunday premium pay for hours worked as an employee of the Federal Aviation Administration (FAA).

On Sunday April 25, 1976, Mr. Parker, an air traffic controller at the Fort Worth Air Route Traffic Control Center, was scheduled to work a tour of duty from Saturday midnight to 8 a.m. Sunday. During that tour of duty at 2 a.m., daylight savings time began. Pursuant to the agreement between PATCO and the FAA, Mr. Parker was given the option of working a full 8 hours until 9 a.m., which he accepted and worked. The FAA paid him Sunday premium pay for only 7 of the 8 hours worked, and refused to pay Sunday premium pay for the eighth hour of the tour of duty (from 8 a.m. to 9 a.m.).

In denying Sunday premium pay for the eighth hour of the tour of duty, Mr. Reasoner, the Chief of the Fort Worth Air Route Traffic Control Center stated:

"Your regularly scheduled tour of duty on April 25, 1976, was from midnight to 8 a.m. Since the change to daylight savings time occurred on this date, this resulted in the tour being only seven hours. As stated, it was your option to work until 9 a.m.

B-189113

"Based on a Comptroller General's decision--: U.S.C. 5546, 46 Comp. Gen. 337 (1966)--

". . . Thus, a full-time employee whose regularly scheduled tour of duty includes a period of service of less than 8 hours any part of which falls between midnight Saturday and midnight Sunday is entitled to premium pay for the number of hours worked not in excess of the number of hours regularly scheduled for such period. . . .

you would not be entitled to Sunday pay for the hour you chose to work that day. There was no requirement for you to remain on duty as the normal relief for the midnight shift reported at 8 a.m."

Mr. Peer has requested a ruling as to whether Mr. Parker is entitled to Sunday premium pay for the hour worked by him on Sunday April 25, 1976, from 8 a.m. until 9 a.m. The issue presented is whether the optional hour worked by Mr. Parker may be considered to be part of Mr. Parker's "regularly scheduled" tour of duty so as to entitle him to Sunday premium pay under 5 U.S.C. § 5546 (1970), and consistent with decision 46 Comp. Gen. 337 (1966).

Entitlement of a General Schedule employee to Sunday premium pay is governed by 5 U.S.C. § 5546(a) (1970) which provides:

"§ 5546. Pay for Sunday and holiday work.

"(a) An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5342(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay." (Emphasis supplied.)

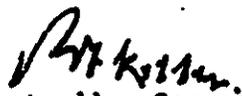
We have construed the phrase "work during a regularly scheduled 8-hour period of service" as work which is duly authorized in advance and scheduled to recur on successive days or after specified intervals. Matter of Clara A. Day, B-185022, June 2, 1976. According

B-189113

t: the claimant, and unrefuted by the FAA, the claimant had a tour of duty which included the period from Saturday midnight until 8 a.m. Sunday and which, pursuant to the agreement between the FAA and PATCO, was required to be posted 14 days in advance. The agreement provided that, "[o]n changing to daylight savings time, employees shall be afforded the opportunity to remain on duty for eight (8) hours."

Since Mr. Parker would normally have worked an 8-hour tour of duty from Saturday midnight until 8 a.m. Sunday, all 8 hours of such tour of duty would normally have been paid at Sunday premium rates. However, on the one Sunday each year when daylight savings time goes into effect, air traffic controllers on duty are allowed to work their normal 8 hours in spite of the time change. We believe that the optional hour from 8 a.m. to 9 a.m. is part of the regularly scheduled tour of duty since it is authorized in advance as a method of maintaining the normal length of the tour of duty. The reduction of time otherwise caused by the change to daylight savings time was simply negated by the provision in the agreement between PATCO and FAA.

For the above reasons, we believe that Mr. Eric Parker is entitled to premium pay for the full tour of duty he worked on Sunday April 25, 1976, including the hour from 8 a.m. to 9 a.m. His claim for premium pay should be paid by FAA in accordance with the above.

  
Deputy Comptroller General  
of the United States