

Federal Employee Reservists Eligible for Back Pay Dating to 1980

Federal employees who served in the military reserves may now be eligible to be compensated for wrongly charged military leave dating as far back as 1980, because of a recent ruling from the Merit Systems Protection Board.

Government workers are given up to 15 paid days of leave a year to spend in the National Guard or military reserves. But until 2000, the government was erroneously counting weekends and holidays in this tally.

Last July, the MSPB ruled that employees who served in the reserves between 1994 and 2000 were eligible for compensation for mistakenly charged leave. Last week the board, a quasi-judicial body that handles federal workplace disputes, issued a ruling pushing the date back to 1980.

"It's great news for the hundreds of thousands of employees who took military leave before 1994," said Mathew Tully, a lawyer for Tully, Rinckey & Associates, which filed the case.

Compensation would take the form of extra leave days for most employees. Retirees and workers who used leave without pay to compensate for the extra days may receive cash, Tully said.

The decision provides another boon for federally employed reservists: MSPB loosened the documentation requirements for employees filing claims.

"What the board has basically said is file the claims without the paperwork and worry about the paperwork after you file your claim," Tully said. Once claims are filed with MSPB, employees will be given subpoena power to acquire military and civilian records documenting their leave, he said.

Without this provision, some claimants found it difficult to come up with a paper trail proving their claim, and were filing time-consuming Freedom of Information Act requests for documents, Tully said.

In January, Tully's firm won a similar case at a lower level of the MSPB. That case was filed against the Agriculture Department, which appealed the ruling. The appeal is still pending. But last week's decision, which involved an employee from the State Department, was from the highest level of the MSPB and sets a precedent for cases that follow.

If the State Department wants to appeal the decision, it must ask the Office of Personnel Management to take up the case on its behalf and request reconsideration from the MSPB. If the board upholds its own decision, OPM can then appeal the decision in federal court.

A spokeswoman for State said the agency is reviewing the decision with OPM to decide on its next steps.

