

Oklahoma Federal Court Finds Expense Reimbursement Need Not Be “Rolled In” To Overtime Calculation

Article By:

Noel P. Tripp

Fixed payments made on other than an hourly basis to non-exempt (*i.e.*, overtime eligible) workers often must be [included in the regular rate of pay](#) for purposes of calculating overtime. One type of payment that may be excluded from the regular rate calculation is payment for “reasonable payments for travel expenses, or other expenses, incurred by an employee in the furtherance of his employer’s interests and properly reimbursable by the employer,” a provision interpreted by Judge [Claire V. Eagen](#) of the Northern District of Oklahoma in a new decision. *Sharp v. CGG Land (U.S.) Inc.*, 2015 U.S. Dist. LEXIS 141658 (N.D. Okla. Oct. 19, 2015).

In *Sharp*, Judge Eagen rejected plaintiff’s argument that because the “hot shot” fixed travel reimbursement payments at issue were made to reimburse them for “traveling to the remote work site,” they were not payments for “expenses [incurred] while actually in transit” and thus not probably excludable from the overtime rate. The Court called this a “hyper-literal interpretation of the term ‘traveling,’” and found that payments made for expenses incurred during “time spent ‘away from home’ on an employer’s business” are excludable. Thus, the fixed reimbursement payments Defendant, a seismic surveying firm, made to its drivers and vibe operators properly were excluded from the regular rate.

The regulations governing the regular rate calculation are an example of just one hyper-technical facet of FLSA compliance. Employers must be vigilant regarding FLSA requirements.

Source URL: <https://natlawreview.com/article/oklahoma-federal-court-finds-expense-reimbursement-need-not-be-rolled-to-overtime>