

STATE OF TENNESSEE

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Opinion No. 11-72

Jury Duty Travel Compensation

QUESTION

Does Tennessee Code Annotated § 22-4-106(b) require an employer to compensate an employee for travel time to and from jury duty when the employee is not compensated for travel as a part of the employee's usual compensation from the employer?

OPINION

Yes. Tennessee Code Annotated § 22-4-106(b) requires an employer, subject to certain limited exceptions, to provide an employee his or her "usual compensation" for time "actually spent serving and traveling to and from jury duty."

ANALYSIS

Tennessee Code Annotated §§ 22-4-101 to 106 provide a comprehensive framework for jury duty service. Tennessee Code Annotated § 22-4-106 addresses the compensation of jurors, and states in pertinent part:

(a)(1) Upon receiving a summons to report for jury duty, any employee shall, on the next day the employee is engaged in the employee's employment, exhibit the summons to the employee's immediate superior, and the employer shall thereupon excuse the employee from employment for each day the employee's service as a juror in any court of the United States or this state exceeds three (3) hours.

(b) Notwithstanding the excused absence as herein provided in subsection (a), **the employee shall be entitled to the employee's usual compensation received from such employment;** however, the employer has the discretion to deduct the amount of the fee or compensation the employee receives for serving as a juror. **Moreover, no employer shall be required to compensate an employee for more time than was actually spent serving and traveling to and from jury duty.** If an employer employs less than five (5) people on a regular basis or if the juror has been employed by an employer on a temporary basis for less than

six (6) months the employer is not required to compensate the juror during the period of jury service pursuant to this section.

(c) It is the duty of all persons paying jurors their fee or compensation for jury service to issue to each juror a statement showing the daily fee or compensation and the total amount of fees or compensation received by the juror. The person also shall provide a juror with a statement showing the number of hours the juror spent serving each day if the juror or juror's employer requests such a statement prior to the service at issue.

Tenn. Code Ann. § 22-4-106(a)-(c) (emphasis added).¹ The provisions governing employer compensation of an employee summoned to jury duty were originally enacted in 1978 and have not changed significantly since that date. *Compare* 1978 Tenn. Pub. Acts 522 *with* Tenn. Code Ann. § 22-4-106(b).

An employer is essentially required to pay the employee his or her “usual compensation”, provided that no employer is required to compensate an employee for “more time than was actually spent *serving and traveling to and from jury duty.*” Tenn. Code Ann. § 22-4-106(b) (emphasis added). This Office has previously addressed the operation of this statute, as well as the Legislature’s intent for these statutory provisions to have a broad and remedial effect to correct the injustice of compelling workers to sustain a financial loss because of their service on a jury. Op. Tenn. Att’y Gen. 99-014 (January 27, 1999); Op. Tenn. Att’y Gen. 78-311 (July 31, 1978) (copies attached). Opinion No. 78-311 observed that what constitutes “usual compensation” would necessarily vary on a case-by-case basis and would be a question of fact. The legislative floor debates indicated a salaried person would receive his or her usual salary, upon a pro rated basis. Tenn. Op. Att’y Gen. 78-311 at p. 2. The Opinion also provided an example of how a person summoned to jury duty would be compensated, stating that an employee who serves two hours “traveling and sitting as a juror” would be entitled to compensation for the two hours at his or her usual rate of compensation. *Id.*

Courts addressing the application of these statutes have likewise emphasized their remedial nature. As the United States District Court recognized in the case of *In re Heritage Propane*:

Employers enjoy the benefits of our independent judiciary and share the obligations of every citizen for making our jury system work. First and foremost, **employers have a duty to ensure that employees can report for jury duty without fear of reprisal or loss of benefits.** No juror can be . . . attentive . . . **if the juror is anxious and worried about the security of his or her employment or the loss of benefits as a result of absence from work because of jury service.**

.....

¹ Under this statute an employee is eligible for juror compensation from the employer unless the employer employs less than five employees on a regular basis or the employee has worked for the employer for less than six months.

.... Employer reprisal in any form, whether by discharge or the elimination of benefits otherwise available, interferes with the integrity of the judicial system, is an obstruction of justice, fosters disrespect for the rule of law and jeopardizes the national policy of providing a fair cross section of the community on juries.

In re Heritage Propane, No. 2:07-MC-01, 2007 WL 433290, at 2 (E.D. Tenn. Feb. 6, 2007).

In light of the statutory reference including travel time as a component of jury service and the legislative intent to protect workers from the loss of benefits when called to jury service, Section § 22-4-106(b) is properly construed as providing that travel time to and from jury duty is compensable as part of jury service. When the statutory language is clear, as is the case here, the plain meaning of the language must be applied in its normal and accepted use. *See Auto Credit of Nashville v. Wimmer*, 231 S.W.3d 896, 900 (Tenn. 2007).

Accordingly, it is our opinion that an employer is required to compensate an employee for travel time to and from jury duty, as well for the employee's service on the jury. Thus, if an employee spends two hours traveling to and from jury service and four hours serving on the jury, the employee would be entitled to six total hours of his or her usual compensation.

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