

KEYWORDS: waiver of indebtedness-pay and allowances

DIGEST: In order to be considered for waiver under 5 U.S.C. § 5584, a debt must arise from an erroneous payment of pay or allowances.

CASENO: 07091401

DATE: 9/17/2007

September 17, 2007

In Re: [REDACTED] Claimant	) ) ) ) )	Claims Case No.07091401
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**CLAIMS APPEALS BOARD  
RECONSIDERATION DECISION**

**DIGEST**

In order to be considered for waiver under 5 U.S.C. § 5584, a debt must arise from an erroneous payment of pay or allowances.

**DECISION**

A former Defense Department employee requests reconsideration of Defense Office of Hearings and Appeals (DOHA) Appeal Decision 07070601, dated August 29, 2007. In that decision, the adjudicator found that the employee’s debt of \$488.60 could not be considered for waiver because it did not arise from an erroneous payment of pay or allowances.

**Background**

The record shows that a bank in Germany initiated an uncollectible debt collection action against the employee on June 24, 2002, in the amount of \$488.60 for a defaulted line of credit.

The Defense Finance and Accounting Service (DFAS) is collecting the debt on behalf of the bank. The former employee states that without his knowledge an unknown person drained the balance from his bank account and then withdrew an additional \$488.60. The former employee requested waiver. Our adjudicator found that the debt could not be considered for waiver because it did not arise from an erroneous payment of pay or allowances.

### **Discussion**

Under 5 U.S.C. § 5584, we have the authority to waive the government's claim for repayment of erroneous payments of pay and allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. Our authority to waive repayment extends only to debts arising from erroneous payments of pay or allowances. *See* the Comptroller General's decision in B-242195, June 14, 1991.<sup>1</sup>

In this case, the employee's debt does not involve an erroneous payment of pay or allowances. Therefore, it cannot be considered for waiver. While the circumstances are very unfortunate, waiver under 5 U.S.C. § 5584 is not available as a remedy.

The employee may wish to contact DFAS or other appropriate authorities regarding the validity of the debt and the details of collection.

### **Conclusion**

We sustain the decision of DOHA's adjudicator that the employee's debt cannot be considered for waiver. In accordance with DoD Instruction 1340.23, ¶ E8.15, this is the final administrative action of the Department of Defense in this matter.

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Michael D. Hipple  
Chairman, Claims Appeals Board

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Jean E. Smallin  
Member, Claims Appeals Board

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<sup>1</sup>While the cited case involves a very different situation from the one before us, it stands for the principle that our waiver authority extends only to debts arising from erroneous payments of pay and allowances. The waiver standards under 10 U.S.C. § 2774 are the same as under 5 U.S.C. § 5584.

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William S. Fields  
Member, Claims Appeals Board