

November 25, 1998

In Re:

[Redacted]

Claimant

)

Claims Case No. 98102706

CLAIMS APPEALS BOARD DECISION

DIGEST

Incident to a permanent change of station, an employee received \$8,164 in travel advances. Although his reimbursable travel expenses exceeded the advances by less than \$100, he received a check for over \$4,000 in settlement of his travel expenses. Because he should have known that the check was an overpayment, waiver under 5 U.S.C. § 5584 is not appropriate.

DECISION

This is in response to an appeal of DOHA Settlement Certificate, DOHA Claim No. 98061806, August 7, 1998, which denied the request of an employee for waiver of a debt which arose when he received an overpayment upon the settlement of his travel claim following a permanent change of station.

Background

The employee received permanent change of station orders dated January 31, 1997, transferring him from Shaw Air Force Base, South Carolina, to a military facility in Georgia. Between February and July 1997, he received four travel advances totaling \$8,164.00. When he had completed his travel, his reimbursable travel expenses totaled \$8,262.73. Therefore, he should have received \$98.73 (\$8,262.73 minus \$8,164.00). Because only the first two travel advances, which totaled \$3,936.00, were listed in the appropriate blank on the travel voucher, the employee was reimbursed in the amount of \$4,326.73, which resulted in an overpayment of \$4,228.00 (\$4,326.73 minus \$98.73). The employee states that waiver should be granted because the overpayment was the result of administrative error and because all four of the travel advances were documented on the back of the voucher.

Discussion

Under 5 U.S.C. § 5584, we have the authority to waive the collection of overpayments of pay and allowances if collection would be against equity and good conscience and not in the best interest of the United States and if there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. The standard we use to determine fault is whether a reasonably prudent person knew or should have known that he was receiving payments in excess of his entitlements. Our decisions indicate that waiver is not appropriate when the employee knew or should have known that he was receiving an overpayment. *See* DOHA Claims Case No. 98110227 (November 19, 1998). *See also* *Ark F. Jones*, B-202136, July 20, 1981, and the cases cited therein. The employee does not acquire title to the excess payment merely because the government made an administrative error, and he has a duty to return the excess amount when asked to do so. *See Master Sergeant Haywood A. Helms, USAF*, B-190565, Mar. 22, 1978.

In the case before us, the employee should have been aware that he had received \$8,164 in travel advances. Since his reimbursable travel expenses had been calculated at \$8,262.73, he should have been aware that a reimbursement of \$4,326.73 was an overpayment and should have called the error to the attention of the proper authorities. He is therefore at least partially at fault for the overpayment according to our decisions. *See* DOHA Claims Case No. 98110227, *supra*.

Thus, he did not acquire title to the overpayment even though the initial cause of the overpayment was administrative error, and he has a duty to return it. *See Master Sergeant Haywood A. Helms, B-190565, supra.* Waiver is not appropriate.

Conclusion

We affirm the Settlement.

/s/ _____

Michael D. Hipple

Chairman, Claims Appeals Board

/s/

Christine M. Kopocis

Member, Claims Appeals Board

/s/

Jean E. Smallin

Member, Claims Appeals Board