

DATE: March 3, 1997

In Re:

[Redacted]

Claimant

Claims Case No. 97021019

CLAIMS APPEALS BOARD DECISION

DIGEST

In accordance with the Joint Federal Travel Regulations, no storage is authorized at the member's destination when the shipment originates from non-temporary storage. Storage charges paid by the government to the carrier for such storage do not reflect an "erroneous" payment. A claim against a member arising from such payments may not be considered for waiver under the waiver statute.

DECISION

This is in response to an appeal of the U.S. General Accounting Office's (GAO) Settlement Certificate B-274423, November 8, 1996, which denied waiver under 10 U. S. C.

2774 of \$2,823.16 of a service member's debt to the United States resulting from temporary storage charges incurred incident to his transfer to the Fleet Marine Corps Reserves (FMCR). Pursuant to Public Law 104-316, October 19, 1996, the authority of the Comptroller General to waive a claim of the United States against a person arising out of an erroneous payment of pay (salary) or allowances, including travel, transportation or relocation expenses and allowances, was transferred to the Director, Office of Management and Budget (OMB). Effective on December 18, 1996, the Director of OMB delegated his waiver authority involving all uniformed service members and civilian employees of the Department of Defense to the Secretary of Defense. The Defense Office of Hearings and Appeals exercises the authority of the Secretary.

Background

At the time the member was transferred to the FMCR, his household goods were in non-temporary storage at Camp Pendleton, California. He requested they be shipped to his home of record in Austin, Texas, completing an Application for Shipment and/or Storage of Personal Property, DD Form 1299, on April 6, 1993. When his household goods arrived at his home of record, he was not there to claim them. As a result, they were placed in temporary storage. The Service found that the member was indebted to the United States for the storage charges the government paid the carrier.

The member requested waiver of the storage charges stating that he did not request removal of his household goods from long-term storage, he was not notified that his goods were being removed from long-term storage, and he was not notified that the household goods were in temporary storage.

The Comptroller General upheld the Service's denial of the member's waiver request on the basis that the claim did not represent an erroneous payment. The decision acknowledges the long-standing and standard practice of government agencies to ship the total weight of a qualifying member's household goods at government's expense and to then collect any charges for excess weight or extra services such as storage from the member. The member disagrees with the denial of the waiver.

Discussion

Our Office may grant waiver of a debt arising out of an erroneous payment of pay and

allowances to members or former members 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

member. The record includes a copy of the DD Form 1299 signed by the member requesting shipment of this household goods. The government appropriately paid the carrier for the storage services provided when the member was not available to accept the shipment at destination. It was appropriate for the government to seek to collect these charges from the member because of the lack of statutory authority for the government to pay them. Under the Joint Federal Travel Regulations, paragraph U5365-C4, temporary storage is not authorized at a member's destination when the shipment originates from non-temporary storage.

The member's argument that he did not receive notification of the movement or of the storage of the shipment has no bearing on the case. The member provides no evidence to support his argument that he did not request removal of his goods from long-term storage in California. The signed DD Form 1299 disputes his statement. Statutory authority for the government to pay for storage at destination for this shipment does not exist.

We agree with GAO's determination that the payment of additional charges for storage to a carrier by an agency in accordance with the standard practice of government agencies is not "erroneous" and claims against a member arising from such payments generally may not be considered for waiver under the waiver statute. Compare Transportation Debt Waivers,

B-229337, June 21, 1988 and Paul Rodriquez, 67 Comp. Gen. 589 (1988).

Conclusion

We uphold the denial of the waiver request.

/s/

Michael D. Hipple

Chairman, Claims Appeals Board

/s/

Christine M. Kopocis

Member, Claims Appeals Board

/s/

Jean E. Smallin

Member Claims Appeals Board