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*P. Lammicella
Civ Pers*

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-187913

DATE: February 9, 1977

MATTER OF: Carl E. Hinrichs - Claim for Damage to Personal Property under the Military Personnel and Civilian Employees' Claims Act of 1964

DIGEST:

1. Where National Park Service employee's suitcase was damaged incident to official business travel, claim under Military Personnel and Civilian Employees' Claims Act of 1964 is properly for consideration of Secretary of the Interior or his designee. GAO has no jurisdiction to consider claims of employees of other agencies for loss of, or damage to, personal property under such Act. 31 U.S.C. §§ 240-243, as amended.
2. Determination of National Park Service's Regional Solicitor, who has been delegated authority to settle claims under Military Personnel and Civilian Employees' Claims Act of 1964, as amended, 31 U.S.C. §§ 240-243, is final and conclusive. There is no duty upon certifying officer to question such determination or to request advance decision from GAO.

This action concerns the request by Mr. T. J. Baer, an authorized certifying officer of the United States Department of the Interior, for an advance decision as to the propriety of paying the claim of Mr. Carl E. Hinrichs for damage to his personal property incurred while engaged in official travel.

The facts and circumstances giving rise to Mr. Hinrichs' claim, as disclosed by the record, are set forth below. On or about September 12, 1976, the claimant, an employee of the National Park Service, Great Smoky Mountains National Park, pursuant to official travel orders, was enroute from Knoxville, Tennessee, to Denver, Colorado, to attend a National Park Service sponsored training session. Upon arrival at Denver, Mr. Hinrichs found that his suitcase was damaged beyond repair and immediately filed a claim with Braniff International Airlines seeking damages. The airlines

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replaced the suitcase with an identical case, but charged Mr. Hinrichs a replacement fee of \$30. (The suitcase was 6 years old at the time, and Braniff arrived at the \$30 fee by deducting for estimated depreciation.) Mr. Hinrichs filed a claim with the Department of the Interior for \$30, the amount of the replacement fee he had paid.

The claim has been submitted through the Tort Claims Officer, to the Regional Director, Southeast Region, to the Regional Solicitor, Atlanta, who in turn advised the Regional Director that an award was made to the claimant on November 2, 1976, under the Military Personnel and Civilian Employees' Claims Act of 1964. The certifying officer has requested that our Office render a decision as to whether the claim may properly be paid under that Act and whether the settlement made by Braniff was fair and equitable.

Section 3(a) of the Military Personnel and Civilian Employees' Claims Act of 1964, Pub. L. No. 88-558, approved August 31, 1964, 78 Stat. 767, as amended, 31 U.S.C. § 241(b)(1), Supp. IV (1974), authorizes the head of each agency or his designee to pay claims up to \$15,000 for damages to, or loss of, personal property incident to an employee's service. In addition, 31 U.S.C. § 242 states:

"Notwithstanding any other provision of law, the settlement of a claim under sections 240 to 243 is final and conclusive."

With respect to whether the claimed loss was incurred incident to service, a review of the legislative history of Pub. L. 88-558, as amended, fails to reveal a specific reference to the types of claims contemplated by the legislation. B-169236, April 21, 1970. It would appear, however, that where an employee is traveling to attend a training session and travel is performed at Government expense, any loss of personal property occurring as a result of such travel, without negligence on the part of the employee, properly might be considered as being a loss incurred incidental to his service. Cf. B-180161, January 8, 1974.

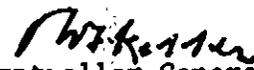
In view of the above statutory provisions, it is not within the jurisdiction of our Office to consider claims for damage to, or loss of, the personal property of employees of the Department of the Interior. In the absence of any overall policies prescribed

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by the President pursuant to 31 U.S.C. § 241(b)(1), such claims are for consideration under the regulations of the employing agency. Any such claim is thus to be considered by the Secretary of the Interior, or his designee, and settlement thereof, if in accordance with the above stated statutes and appropriate regulations, would be final and conclusive. B-169236 supra.

We have been informally advised by Mr. Raymond C. Coulter, Regional Solicitor, Southeast Region, National Park Service, Department of the Interior, that the Office of the Solicitor has been designated by the Secretary of the Interior to settle and pay claims pursuant to 31 U.S.C. § 241(b)(1), and that the Solicitor has further delegated such responsibility to the Regional Solicitors. Since the Regional Solicitor has settled Mr. Hinrichs' claim pursuant to 31 U.S.C. §§ 240-243, that settlement is final and conclusive on the certifying officer. There is no duty on the certifying officer to question such settlement and he would not be held liable for any erroneous determination made by the Regional Solicitor. See B-185497, August 6, 1976.

Accordingly, the voucher may be certified for payment if otherwise proper.


Deputy Comptroller General
of the United States