

DOCUMENT RESUME

02568 - [A1732750]

[Retroactive Temporary Promotion and Backpay for Employee Appointed to Extended Detail]. B-166249. June 9, 1977. 2 pp. + 2 enclosures (2 pp.).

Decision re: Hugh D. McStravick; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Civil Service Commission; Department of Health, Education, and Welfare.

Authority: 55 Comp. Gen. 539. B-183086 (1977).

Thomas G. Cody, Assistant Secretary for Administration, Department of Housing and Urban Development, requested an advance decision as to whether an employee, appointed to an extended detail beyond 120 days, might be given a retroactive temporary promotion and backpay as recommended by a grievance examiner. Because permission to extend the detail was not obtained, the examiner's recommendation was justified. (QM)

Charles Browne
Civ. & Pers.



02568 2750
DECISION

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

FILE: B-186249

DATE: June 9, 1977

**MATTER OF: Hugh D. McStravick - Retroactive Temporary
Promotion For Extended Detail Beyond 120 Days.**

DIGEST: Recommendation of grievance examiner for retroactive temporary promotion and backpay for employee who was appointed to extended detail beyond 120 days may be implemented as CSC permission for extension was not received as is required by chapter 300, Federal Personnel Manual. See 55 Comp. Gen. 539 (1975), affirmed by B-183086, March 23, 1977, 56 Comp. Gen. ____.

By a letter dated March 31, 1976, Mr. Thomas G. Cody, Assistant Secretary for Administration, Department of Housing and Urban Development (HUD), requests an advance decision as to whether Mr. Hugh D. McStravick may be given a retroactive temporary promotion and backpay as recommended by a grievance examiner.

The record shows that Mr. McStravick, a GS-13 employee, was detailed to a GS-14 position, namely Acting Assistant Regional Inspector General, Regional III, from July 12, 1971, until May 12, 1975. Subsequently, Mr. McStravick filed a grievance requesting inter alia, a retroactive temporary promotion for the extended detail.

The grievance examiner found that HUD had not requested an extension of time for this detail beyond the original 120 days as is required by chapter 300 of the Federal Personnel Manual. Therefore, in accordance with our decision Matter of Everett Turner and David L. Caldwell 55 Comp. Gen. 539 (1975), the examiner recommended a temporary promotion for that portion of the extended detail beginning 121 days after July 12, 1971. The Assistant Secretary in his letter concurred with the findings of the grievance examiner and inquired if the recommendation may be implemented under Turner-Caldwell. We held the matter in abeyance pending reconsideration of Turner-Caldwell in light of United States v. Testan, decided by the United States Supreme Court on March 2, 1976. By decision B-183086, March 23, 1977, 56 Comp. Gen. ____, we affirmed Turner-Caldwell.

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The record indicates that the facts in this case regarding an appointment to an extended detail beyond 120 days are similar to those of Turner-Caldwell in that permission to extend the detail beyond 120 days was not obtained from the Civil Service Commission. Accordingly, the recommendation of the grievance examiner may be implemented.

Deputy

R. F. Kistner
Comptroller General
of the United States

Charles Browne
Civ. Pers.



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

B-186249

June 9, 1977

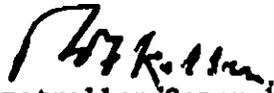
Edwin J. McDermott, Esq.
P.O. Box 141
Wynnewood, Pennsylvania 19096

Dear Mr. McDermott:

Enclosed is a copy of our decision of today permitting the implementation of the recommendation of the Grievance Examiner on the matter of a temporary promotion for your client Mr. Hugh D. McStravick. The claim regarding the same matter, delivered to this Office by you, will not be processed, as it is rendered moot by our decision of today. However, a copy of said claim has been forwarded to the Department of Housing and Urban Development.

Sincerely yours,

Deputy


Comptroller General
of the United States

Enclosure



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

Charles Browne
Civ. Pers.

B-186249

June 9, 1977

The Honorable
The Secretary of Housing
and Urban Development

Dear Madam Secretary:

Enclosed is a copy of our decision of today permitting the implementation of the recommendation of a Grievance Examiner on the temporary promotion of Mr. Hugh D. McStravick. The decision responds to a request dated March 31, 1976, from Thomas G. Cody, Assistant Secretary for Administration. We regret the delay in responding which was occasioned by our reconsideration, at the request of the Civil Service Commission, of the principles involved in Matter of Turner-Caldwell, 55 Comp. Gen. 539 (1975).

For your information we have also enclosed a copy of a claim filed with the Office by the claimant's attorney regarding the same matter. We will not process the claim as it is rendered moot by our decision of today.

Sincerely yours,


Deputy Comptroller General
of the United States