

DOCUMENT RESUME

02904 - [A1953019]

[Claim for Loss from Monetary Exchange]. B-188721. July 11, 1977. 3 pp.

Decision re: Cdr. Kenneth R. Barry; by Robert F. Keller, Deputy Comptroller General.

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

Contact: Office of the General Counsel: Military Personnel.

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

Organization Concerned: Department of the Navy.

Authority: Military Personnel and Civilian Employees' Claims Act of 1964, as amended (P.L. 88-558; 78 Stat. 767; 31 U.S.C. 240-243 (Supp. IV)). German Bank v. United States, 149 U.S. 573 (1893). Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 (1947). Posey v. United States, 449 F. 2d 228, 234 (5th Cir., 1971). 44 Comp. Gen. 469. 44 Comp. Gen. 471.

An appeal was made to a prior disallowance of the claim of a Navy member assigned to the American Embassy in Finland for an amount equal to value lost on exchange of Finmarks for dollars after devaluation of the Finmark. GAO has no jurisdiction to consider claims of loss to personal property of service members of other departments, nor is there any law giving basis to consider the claim. The prior disallowance was sustained. (Author/DJM)

3019  
02904

**DECISION**



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

**FILE: B-188721**

**DATE: July 11, 1977**

**MATTER OF: Commander Kenneth R. Barry, USN**

**DIGEST:** Navy member, assigned to the American Embassy in Finland, who claims under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U. S. C. §§240-243 (Supp. IV, 1974), an amount equal to the value lost on an exchange of Finnmarks for dollars after devaluation of the Finnmark, was not paid by the Departments of State or Navy. GAO has no jurisdiction to consider claims for loss of, or damage to, personal property of a member under the jurisdiction of another Department under that Act and there is no other law which would provide a basis for allowance of this claim.

This action is in response to a letter dated March 11, 1977, from Commander Kenneth R. Barry, USN, which in effect constitutes an appeal from a settlement by the Claims Division of this Office dated February 28, 1977, disallowing the member's claim for \$443.78 representing an amount he would have realized had 24,500 Finnmarks been converted into dollars when submitted to a Department of State official before a subsequent devaluation of the Finnmark.

The member was assigned to the American Embassy in Helsinki, Finland, as Assistant U. S. Naval Attache. As an embassy official, the member was entitled to bring an automobile into Finland duty-free for his own personal use. On May 23, 1975, the member submitted to the Budget and Fiscal Officer at the Embassy a request to sell his car in Finland, because the member was being transferred out of Finland and Finnish authorities granted permission. On June 27, 1975, the member submitted 24,500 Finnmarks to the Budget and Fiscal Officer for conversion into dollars. After the member's repeated inquiries over a period of several weeks, the Budget and Fiscal Officer signed a conversion form on the member's behalf and submitted it to the Class B cashier for conversion. The exchange was effected on August 6, 1975, when the exchange rate was lower in terms of dollars received. The member asserts that he would have realized \$443.78 more if the exchange had taken place on June 27, and the State Department does not dispute this conclusion.

B-188721

There seems to be some question as to whether the member submitted full documentation in connection with his request for conversion of funds; however, in view of the following we are not required to deal with that issue.

The member's claim was originally submitted to the Department of State under the Military Personnel and Civilian Employees' Claims Act of 1964, Public Law 88-558, approved August 31, 1964, 78 Stat. 767, as amended, 31 U. S. C. §241 (Supp. IV, 1974), which authorizes the head of each agency or his designee to pay claims up to \$15,000 for damage to, or loss of, personal property incident to a member's service under the jurisdiction of the agency. That Department rejected the claim as not being within the scope of its regulations implementing the Act and forwarded it to the Navy for consideration. The Navy in turn forwarded the claim to this Office for consideration. It appears doubtful that this claim involves property so as to be covered by the Military Personnel and Civilian Employees' Claims Act. Further, Section 4 of that Act, 31 U. S. C. §242, provides:

"Notwithstanding any other provision of law, the settlement of a claim under this Act is final and conclusive."

In view of the above provisions, and the fact that the act gives jurisdiction for settlement of claims thereunder to the Secretary concerned our Office cannot consider claims for damage to, or loss of, personal property of members of the service or employees of other departments.

The Claims Division disallowed the claim based on the general jurisdiction of this Office to settle claims against the Government. We note that the member's claim alleges negligence of a Department of State official. Without regard to the question of the member's action in connection with the exchange of Finnmarks it is well settled that the Government is not liable, absent a statute, for the erroneous acts of its officers or employees even though committed in the course of their official duties. See German Bank v. United States, 148 U.S. 573 (1893), Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 (1947), Posey v. United States, 449 F. 2d 228, 234 (5th Cir., 1971), 44 Comp. Gen. 469, 471 (1965). We find no law under which this claim may be considered by us.

B-188721

Accordingly, since on the basis of the record before this Office there is no legal authority for payment of this claim, the action of our Claims Division disallowing the member's claim is sustained.

*J. H. Kistner*  
Deputy Comptroller General  
of the United States