

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

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FILE: B-213654

DATE: March 6, 1984

MATTER OF: Emile T. Fisher

**DIGEST:**

A former Navy member claims payment based on unused accrued leave at the time of his discharge in 1955 as a result of an administrative action changing the character of his discharge from other than honorable to under honorable conditions. The claim is disallowed since in the intervening period, all Government records which might establish how many days of accrued leave, if any, he had at the time of his discharge, were lost or destroyed. The burden of proof of entitlement absent such Government record is on the claimant and he is unable to furnish evidence that he had leave to his credit.

This decision responds to the appeal by Mr. Emile T. Fisher, a former Navy member, from our Claims Group settlement denying his claim for amounts representing accrued leave believed due by reason of a correction of his military records under 10 U.S.C. 1552. Mr. Fisher's records were corrected to show that he received a general discharge under honorable conditions rather than a discharge under other than honorable conditions. The action of the Claims Group is sustained since Government records do not show, and Mr. Fisher has not satisfactorily demonstrated that he had leave to his credit at the time of his discharge.

Mr. Fisher was discharged from the Navy on May 20, 1955, under other than honorable conditions. As a result he forfeited all accrued leave to his credit. See 37 U.S.C. 33(d) (1952). By letter dated November 24, 1981, he was informed that the Board for the Correction of Naval Records had reviewed his record and that the Secretary of the Navy had approved the Board's recommendation that his record be corrected to show that on May 20, 1955, he received a general discharge under honorable conditions. Because of the correction of Mr. Fisher's record the Navy Finance Center, Cleveland, Ohio, sent him a letter dated August 23, 1982, stating that he might be entitled to payment for any days of unused leave accumulated at the time of his discharge if it could be shown just how much time, if any,

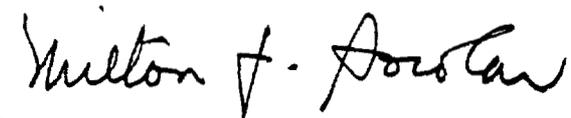
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was accumulated. Unfortunately, since the Navy had no record of Mr. Fisher's 1955 leave account and because he was unable to furnish his final leave or pay record, the Navy Finance Center was forced to deny the claim for lack of proof. Similarly, since no additional evidence was submitted supporting the claim, our Claims Group denied it. No additional supporting evidence has been provided by Mr. Fisher in this appeal.

The burden of proof as to the existence and nonpayment of a valid claim against the Federal Government is on the person asserting the claim. Matter of Bond, B-207041, September 8, 1982. Ordinarily, proof of the validity of a claim can be found in Government records. However, in situations such as this where Government records which may prove or disprove the validity of a claim are unavailable, and where the claimant can produce no records or evidence to support his claim we have no alternative but to disallow the claim. Matter of Romans, B-189212, July 5, 1977.

Accordingly, since no evidence has been found by the Navy or submitted by Mr. Fisher tending to show the amount of leave to his credit at the time of discharge, his claim must be denied and our Claims Group's settlement sustained.

*for*   
Comptroller General  
of the United States