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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Major Gerald A. Lechliter, USA
File: B-236008
Date: May 7, 1991

DECISION

This decision is in response to a request from Major Gerald A. Lechliter for reimbursement under the provisions of the Meritorious Claims Act of \$4,006.10 in housing costs. The loss was caused by erroneous advice provided by the U.S. Army Housing Referral Office (HRO), Garmisch, Germany.

When Major Lechliter and his wife arrived in Garmisch, Germany, on a permanent change of station transfer in July 1983, the local HRO furnished a statement of nonavailability of government quarters, calculated his entitlement (Basic Allowance for Quarters and Rent Plus) to be approximately \$700 per month and assisted him in leasing quarters. On July 20, 1983, the member signed a 21 month lease with rental costs of approximately \$700 per month. The lease was later extended 2 months because the member's overseas tour was extended.

On September 14, 1983, after occupying the leased quarters, Major Lechliter was advised that the HRO had overestimated his entitlement by \$234 per month. The member's efforts to terminate the lease or reassign it to the Army proved unsuccessful.

The member argues that the reason for his loss was the erroneous computation by the HRO and if he had known the proper entitlement he would have leased less expensive quarters.

There is no statutory authority for payment of a member's housing expenses which exceed his quarters and overseas housing allowance and thus no legal basis for granting Major Lechliter's claim for these expenses. Col. Edward P. Cutolo, USA, B-197982, Feb. 26, 1981. Here, the member's proper allowance was the reduced entitlement. With regard to

the erroneous advice given, it is well-settled that the government cannot be bound beyond the actual authority conferred upon its agents and employees by statute or regulation. See John H. Teele, 65 Comp. Gen. 679 (1986).

We do not find that this matter should be submitted to Congress as a meritorious claim under the provisions of section 3702(d) of title 31, United States Code. It is not the purpose of the Meritorious Claims Act to provide for payment whenever expenses are incurred pursuant to erroneous authorization. The act is an extraordinary remedy which is limited to extraordinary circumstances. The cases we have reported to Congress generally have involved equitable circumstances of an unusual nature that are unlikely to constitute a recurring problem.

The housing entitlement included Rent Plus, a program which was initiated in 1982 and was still having implementation problems which were compounded by the fluctuations in the currency rate. While the member rented an apartment based on the initial erroneous entitlement, the fact remains that for over 2 years he and his spouse had the benefit of residency in the more expensive quarters. We do not find that the insufficiency of a housing allowance to cover the cost of quarters leased abroad justifies reporting the claim to Congress under the Meritorious Claims Act.


James F. Hinchman
General Counsel