

Matter of: Melinda Shaun Wiegmann
File: B-254266
Date: December 27, 1993

DIGEST

Former Navy member's request for waiver of her debt to the United States which arose when she was erroneously overpaid pay and allowances more than twice her entitlement is denied because former member is not without fault under 10 U.S.C. § 2774.

DECISION

Melinda Shaun Wiegmann has appealed the June 30, 1993 settlement of our Claims Group which denied her request for waiver of the government's claim against her for funds she erroneously received as the result of an overpayment incident to her military service with the United States Navy.

The record shows that in February 1990, Mrs. Wiegmann was entitled to pay and allowances in the amount of \$1,149.67. However, due to an administrative error, she received payments totaling \$2,573.56 resulting in the overpayment of \$1,423.89.

Section 2774(a) of title 10, United States Code authorizes the Comptroller General to waive claims for erroneous payments to members or former members of the uniformed services, for pay and allowances, if collecting the claim would be against equity and good conscience, and not in the best interest of the United States. Further, waiver can only be granted if it is shown that the claim arose because of an administrative error, with no indication of fraud, fault, misrepresentation or lack of good faith by the member or any other person in accepting the overpayment. 10 U.S.C. § 2774(b).

Mrs. Wiegmann argues that she questioned the excessive amount of her pay and was assured by a disbursing clerk that the amount was proper. We agree with the Defense Finance and Accounting Service, however, that in view of the unexplained increase in her pay, she should have requested an explanation or breakdown of her pay to ensure that she

was not being overpaid before spending the money. There was no reason for an increase of that magnitude in her pay entitlements and despite the assurance that the pay was proper, we find she was at least partially at fault. The standard we employ in determining whether a member was at fault in accepting an overpayment is whether, under the particular circumstances involved, a reasonable person would have been aware that he or she was receiving more than their proper entitlement. Susan J. Carroll, B-252672, Sept. 20, 1993.

Accordingly, we affirm the action of the Claims Group and deny the request for waiver.

Finally, Mrs. Wiegmann requests our assistance regarding the charging of regular leave at the time of her separation from the service when she believes she was entitled to maternity leave and should be reimbursed for the regular leave she used. Our review of the Naval Military Personnel Manual shows no provision for maternity leave. However, if she feels that there was an error made in her leave account at the time of her separation, she should file a written claim with the Defense Finance and Accounting Service, Cleveland Center.

James F. Hinchman
General Counsel