

DECISION

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

FILE: B-186245

DATE:

SEP 22 1976

MATTER OF:

Jack Bernbaum - Relocation Expenses

DIGEST:

Employee separated due to reduction in force was improperly placed late on Department of Defense (DOD) priority placement program over 1 year after separation. DOD then extended employee's registration on priority placement program because of the failure to give him a full year's registration as required by DOD policy. Ultimately, the employee was reinstated 1 year and 10 months after initial separation at a different duty station and employee claimed relocation expenses. Regardless of DOD's error, employee's claim is denied as 5 U.S.C. § 5724a(c) (1970) requires that the employee be reinstated within 1 year to receive relocation expense reimbursement.

This action is at the request of Captain Charles C. Shaw, Finance and Accounting Officer, Rock Island Arsenal, concerning the claim for certain relocation expenses of Mr. Jack Bernbaum, an employee of the Department of the Army.

The record shows that Mr. Bernbaum was separated from his position as a mechanical engineer, grade GS-830-12, at the Aberdeen Proving Ground, Maryland, on January 2, 1974. According to established policy of the Department of Defense in effect at that time, Mr. Bernbaum was entitled to be registered immediately for 1 year in the Department of Defense priority placement program at the GS-12 level. Due to an administrative error, Mr. Bernbaum was not registered in the priority placement program until March 5, 1975. After Mr. Bernbaum appealed to the Department of Defense, the Department acknowledged that Mr. Bernbaum had been denied a complete year in the priority placement program and authorized Mr. Bernbaum's registration on the priority placement program for an additional 3-month period. Mr. Bernbaum was ultimately reappointed to a grade GS-12 mechanical engineer's position at the Lake City Army Ammunition Plant in Independence, Missouri, effective November 3, 1975, 1 year and 10 months after his separation.

Mr. Bernbaum has submitted a travel voucher on which he has claimed certain expenses which he incurred incident to his move to Lake City Army Ammunition Plant. His claim, however, was denied by the Department of Defense which cited as the basis for denial 5 U. S. C. § 5724a(c) (1970) which states the following:

"Under such regulations as the President may prescribe, a former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) and (b) of this section, in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated."

Mr. Bernbaum argues that although he was not reinstated as an employee until well after 1 year's time of being separated, the Government's administrative error in delaying his placement on the priority placement program should not work to deny him the change-of-station benefits granted to reinstated employees by section 5724(a)(c). However, under the above-cited law which grants reimbursement of permanent change-of-station expenses to reemployed employees, there is an absolute requirement that the employee be reemployed within 1 year of his separation in order that reimbursement for such expenses be made. Therefore, since Mr. Bernbaum was not reemployed within 1 year he is not entitled under the law to reimbursement for change-of-station expenses, regardless of whether it was the agency's fault that Mr. Bernbaum was not timely placed on the priority placement program register which would have given him an opportunity to have been reemployed within 1 year. The voucher may not be certified for payment.

R.F. KELLER

Acting Comptroller General
of the United States