

DOCUMENT RESUME

03539 - [A2573701]

[Terminal Date of Retroactive Temporary Promotions]. B-189593.
September 13, 1977. 2 pp.

Decision re: Reuben P. Vicker; by Robert F. Keller, Deputy
Comptroller General.

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

Contact: Office of the General Counsel: Civilian Personnel.

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

Organization Concerned: Department of the Navy: Navy Regional
Finance Center, Washington, DC.

Authority: 55 Comp. Gen. 539. 5 C.F.R. 335.102(f)(1). 5 C.F.R.
550. F.F.M. 335.

The Director, Civilian Personnel, Navy Regional Finance
Center, Washington, D.C., requested a decision on an employee's
claim for additional compensation alleged to be due as a result
of an extended detail to a grade GS-15 position. While serving
in the position, the employee went on sick leave and was retired
on disability. The employee was entitled to retroactive
temporary promotion and backpay for 7 days. (SW)

1015
BESSO

Reuben Vicker
CP

DECISION



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

FILE: B-189593

DATE: September 13, 1977

MATTER OF: Reuben P. Vicker - Terminal Date of
Retroactive Temporary Promotions

DIGEST: Former grade GS-14 Navy employee was detailed to grade GS-15 position and became entitled to a retroactive temporary promotion on October 6, 1973, under Turner-Caldwell decision 55 Comp. Gen. 539 (1975). He went on sick leave pending disability retirement on June 19, 1974, and GS-15 position was filled by promotion of another employee on October 13, 1974. Agency requests GAO ruling on terminal date of retroactive temporary promotion. Promotion terminated on October 12, 1974, when agency clearly evidenced determination that employee's services were no longer needed in GS-15 position by permanently promoting another employee to that position.

This action concerns a request from the Director, Civilian Personnel, Navy Regional Finance Center, Washington, D.C., for an advance decision on the claim of Mr. Reuben F. Vicker, a former grade GS-14, Systems Accountant, with that agency, for additional compensation alleged to be due as a result of an extended detail to a grade GS-15 position.

The claimant was officially detailed to the higher grade position on June 8, 1973. The Navy Regional Finance Center failed to obtain approval of an extension of the detail from the Civil Service Commission during the first 120-day period in accordance with Commission regulations. Therefore, under our Turner-Caldwell decision 55 Comp. Gen. 539 (1975), Mr. Vicker satisfied the criteria for a temporary promotion on the 121st day of his detail which occurred on October 6, 1973. While serving in his higher grade position, Mr. Vicker went on sick leave beginning June 19, 1974, pending disability retirement, and remained on sick leave until he was retired on disability effective June 2, 1975. In the interim the Navy Regional Finance Center filled the higher grade position, to which Mr. Vicker was detailed by the permanent

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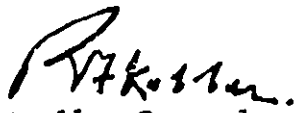
promotion of another employee on October 13, 1974. Prior to that time the duties of the position were performed by the Chief of the Division in which the branch was located.

The Director, Navy Regional Finance Center, now requests a ruling from this Office as to the terminal date of Mr. Vicker's retroactive temporary promotion.

Under provisions of 5 C.F.R. § 335.102(f)(1) and Federal Personnel Manual chapter 335, subchapter 4-4(f), an agency has discretionary authority to terminate a temporary promotion when it determines "* * * that it no longer needs the employee in the position * * *." In the instant case, the Navy Regional Finance Center clearly evidenced a determination that Mr. Vicker's services were no longer needed in the higher grade position when it promoted another employee in that position on October 13, 1974. While it could be argued that this determination occurred earlier when that agency approved Mr. Vicker's request for sick leave pending his disability retirement, we do not find that action conclusive inasmuch as the agency took no other action to terminate the employee's services in the position, as for example, by detailing another employee to those duties or formally terminating Mr. Vicker's detail. Moreover, it is possible that Mr. Vicker could have returned to duty if his request for disability retirement had been disapproved.

Accordingly, Mr. Vicker may be granted a retroactive temporary promotion to grade GS-15 from October 6, 1973, through October 12, 1974. Backpay should be computed pursuant to instructions contained in 5 C.F.R. Part 550, subpart H.

Deputy


Comptroller General
of the United States