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DECISION



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

FILE: B-190152

DATE: November 30, 1977

MATTER OF: Loyd E. Eitel - Claim for payment for unused sick leave

DIGEST: Employee who served nearly 5 months on temporary appointment seeks lump-sum payment for accumulated sick leave. Unused sick leave may be credited towards service upon retirement or it may be recredited to employee if reemployed within 3 years from separation. However, claim for lump-sum payment of sick leave may not be allowed.

This decision is on the appeal by Mr. Loyd E. Eitel of the settlement issued January 26, 1977, by our Claims Division denying his claim for payment of unused sick leave which he had earned under a temporary appointment with the Veterans Administration (VA).


Mr. Eitel was employed by the VA Hospital, Martinez, California, from March 28, 1976, through August 13, 1976, and he earned annual and sick leave during this period. Mr. Eitel's temporary appointment was terminated on August 13, 1976, and he subsequently received a lump-sum payment for 48 hours of accumulated annual leave. Mr. Eitel's claim for lump-sum payment of his accumulated sick leave was denied by our Claims Division on the ground that there is no statutory authority for lump-sum payment for accumulated sick leave. On appeal, Mr. Eitel again states that he was not informed by the VA Hospital when he was hired that he would not be paid for his accumulated sick leave at the time of his separation, and he insists upon payment for the unused leave.

As stated in our Claims Division settlement, under the provisions of 5 U.S.C. 5551(a) (Supp. V, 1975), employees who are separated from Federal service are entitled to lump-sum payment for all accumulated and accrued annual leave, but there is no similar statutory provision for lump-sum payments of sick leave. Unused sick leave to an employee's credit at the time of his retirement may be added to the employee's total Federal service for the purposes of computing an annuity. See 5 U.S.C. 8339(m) (Supp. V, 1975). In addition, an employee who is separated from Federal service is entitled to recredit of his unused sick leave if reemployed within 3 years from the date of separation. See 5 C.F.R. 630.302(a) (1977).

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It is unfortunate that Mr. Eitel was not informed at the time of his appointment that he was not entitled to lump-sum payment of accumulated sick leave, but that does not form a basis for payment of a claim not otherwise allowable under law. Accordingly, we sustain the action of our Claims Division in disallowing Mr. Eitel's claim.

Deputy


Comptroller General
of the United States

UNITED STATES GOVERNMENT

J. Volpe
GENERAL ACCOUNTING OFFICE

Memorandum

TO : Director, Claims Division

November 30, 1977

FROM : Deputy
Comptroller General *Bykell*

SUBJECT: Claim for payment for unused sick leave -B-190152-O.M.

Return herewith is file Z-2724156 along with a copy of our decision B-190152, dated today, sustaining the Claims Division settlement of January 26, 1977, denying the claim of Loyd E. Eitel for accumulated sick leave.

Attachments - 2