



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Larry Goss
File: B-249707
Date: September 24, 1992

DIGEST

Claimant was a civilian employee of the Department of the Air Force in California who transferred to the Army Corps of Engineers in Aberdeen, Maryland. He is obligated to repay the government the amount paid by the government in connection with his transfer when he resigned prior to fulfilling his service agreement. The employee alleges that medical reasons forced him to resign and that the agency should waive his debt. However, he has not provided sufficient evidence to show that his separation was for reasons beyond his control and acceptable to the agency concerned, as provided by 5 U.S.C. § 5724(i) (1988).

DECISION

Mr. Larry Goss, a former employee of the Army Corps of Engineers, appeals our Claims Group settlement.¹ The settlement determined that Mr. Goss was indebted to the United States for a \$5,000 travel advance he was paid incident to acceptance of a position with the Army Corps of Engineers, Aberdeen, Maryland. For the reasons that follow, we uphold the Claims Group settlement.

Mr. Goss was an employee of the Department of the Air Force at Edwards Air Force Base, California, when he applied for and was accepted for a position with the Army Corps of Engineers, Aberdeen, Maryland. In connection with the transfer, Mr. Goss was given a travel advance of \$5,000. He reported to his new duty station on December 6, 1987, and signed a transfer agreement wherein he agreed to remain in government service for 12 months unless released for reasons beyond his control and acceptable to the Department of Defense component concerned.

Mr. Goss resigned from his position on January 23, 1988, for the reason, as stated in his Standard Form 50, "to look for new employment." Subsequently, on February 23, 1988, the

¹Z-2867097, Nov. 29, 1991.

Corps of Engineers accepted Mr. Goss's resignation and requested that he repay his \$5,000 travel advance since he had failed to fulfill the terms of his service agreement, and, in accordance with 2 Joint Travel Regulation, para. C4009 (Ch. 312, Oct. 1, 1991), he was indebted to the United States for such failure.

Mr. Goss says that a medical condition prevented him from fulfilling his service agreement, and that the agency should accept this as evidence that his separation was beyond his control, and waive his indebtedness. Mr. Goss suffers from Meniere's disease, a disease of the inner ear, which causes dizziness. Therefore, he cannot work in movable places. He has submitted two certificates from a doctor attesting to this condition dated November 11, 1988, and January 24, 1989.

Mr. Goss states that the information he received from the Corps of Engineers prior to his transfer indicated that he would be working in a typical building in Aberdeen, and instead the office was located in a series of trailers. Mr. Goss states that on his first day on the job he began to experience nausea and discomfort, and after several days of suffering these symptoms, he requested a transfer. He says that his transfer was denied by the agency and he was offered 3 weeks unpaid absence to seek a new appointment. He says that, with no assistance from the Corps and unable to work in the trailer, he was unsuccessful in obtaining a new position and that he returned to his hometown of Minneapolis.

The Corps of Engineers disputes Mr. Goss's contention that the office he worked in was not sound. The Deputy District Engineer says that the Aberdeen area office is not a movable place, the floor is not flexible, the building experiences no more movement than a wood-framed house, and is structurally sound. The Corps of Engineers also says that it was not aware of Mr. Goss's condition at the time he was offered the position, and it was not until he received a bill from the Baltimore District Finance and Accounting Office for \$5,000 that he revealed his medical condition.

The statute under which the Corps of Engineers paid Mr. Goss's relocation expenses from California to Aberdeen, 5 U.S.C. § 5724(i) (1988), specifically requires that such expenses may be paid only after the employee agrees in writing to remain in government service for 12 months after his transfer, "unless separated for reasons beyond his control that are acceptable to the agency concerned." It further provides that if the employee violates the agreement, the money spent by the United States for such expenses "is recoverable from the employee as a debt due the United States." Our decisions in this regard state that this

determination rests primarily with the agency concerned and that we will overturn the agency's determination only where there is no reasonable basis for the determination. John P. Maille, 71 Comp. Gen. 199 (1992); Jack L. Henry, 65 Comp. Gen. 657 (1986); Jeffrey P. Cardinal, 64 Comp. Gen. 643 (1985).

In this case, there is nothing in the record which indicates that the agency was aware of Mr. Goss's medical condition when he was first hired. The doctor's statements Mr. Goss has furnished as evidence of the fact that he could not work in structural areas such as a trailer are dated approximately 9 months and 1 year after the agency first asked him to repay the relocation expenses. The reason he stated for leaving was "to look for new employment." Finally, Mr. Goss has not submitted any evidence to show that the building he worked in was not structurally sound, or that the symptoms he suffered were related to his working conditions. Thus there is no indication in the record that the Corps of Engineers acted improperly when it found that Mr. Goss's separation was not for reasons beyond his control.

Accordingly, our Claims Group settlement is affirmed and Mr. Goss is liable to repay the government the amounts expended for his relocation expenses.

for *Seymour E. Hinchman*
James F. Hinchman
General Counsel