

DECISION

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

FILE:

B-184948

DATE: NOV 18 1975

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MATTER OF:

Donald M. Engstrom - Relocation Service Agreement

DIGEST:

Government employee executed service agreement incident to change of duty station by which he agreed to remain in Government service for 12 months subsequent to reporting at new duty station. After reporting employee requested leave without pay which was granted and later extended at employee's request beyond expiration of period of agreed service. Although employee was thereafter separated for abandonment of position, he is not liable to repay travel advance to extent funds were expended for compensable relocation costs since time in leave-without-pay status is considered Government service within meaning of 5 U.S.C. § 5724(1) (1970).

This concerns a request for a decision submitted by an authorized certified officer of the General Services Administration (GSA) as to whether he must require repayment of funds advanced in connection with the travel of Mr. Donald M. Engstrom incident to a change of duty station, in the amount of \$2,600. Specifically, we are asked to determine whether a leave-without-pay status of a Government employee will satisfy the requirement of a service agreement under which the employee undertook to remain "in the Government service" for a period of at least 12 months subsequent to reporting for duty at his new station.

The record indicates that Mr. Engstrom was transferred by GSA from Chicago, Illinois, to Washington, D.C., effective October 29, 1972. In connection with this transfer Mr. Engstrom was issued a travel advance in the above amount to defray initial costs of relocation from Lake Geneva, Wisconsin, and that as a condition therefor, executed the service agreement (GSA Form 2255) mentioned above. He reported for duty at Washington, but because of "imminent and serious" personal problems and at his supervisor's suggestion, he requested and was granted leave without pay for a 6-month period, commencing March 23, 1973. His leave-without-pay status was later extended to December 22, 1973. He failed to resume his duties at that time or to respond to written communications, and on March 23, 1974, was separated from Government service for abandonment of his position.

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The submission refers to our decision 45 Comp. Gen. 680 (1966). In that case an employee of the Bureau of Reclamation was placed on leave without pay after only 3 months active service under a 12-month service agreement. Thereafter, he was placed on military furlough for active duty in the Public Health Service. Subsequently, he became a commissioned officer of the Regular Corps of that Service. In the cited decision we stated that:

" * * * if such period of leave without pay may be added to the period of actual service the 12 months' service requirement will have been satisfied. The leave without pay status of a civilian employee of the United States is partially creditable for certain purposes, such as retirement, step increases and leave. * * * Also, he remains on the rolls of the Federal agency as an employee until separated from the service. Under the circumstances we see no reason why * * * /the employee/ should not be regarded as 'in the Government service' within the meaning of * * * /that/ term * * * as used in * * * /the statute/ from which the requirement of the agreed period of service * * * was derived."

Likewise, in B-170392, August 5, 1970, we intimated that placing an employee on maternity leave permitting her to remain on the rolls as in Government service would have satisfied a similar service agreement.

Section 5724(i), title 5, United States Code (1970), provides that:

"An agency may pay travel and transportation expenses * * * and other relocation allowances * * * when an employee is transferred within the continental United States only after the employee agrees in writing to remain in the Government service for 12 months after his transfer, unless separated for reasons beyond his control that are acceptable to the agency concerned. * * *." (Emphasis added.)

An employee on leave without pay remains in the Government service as indicated in our decision 45 Comp. Gen. 680 (1966), notwithstanding the reasons which the agency deemed sufficient to justify placing him in that status. Cf. Federal Personnel Manual ch. 630, § 12-2 (1969 ed. Apr. 23, 1970). He remains on the rolls until "separated," a term which the statute explicitly utilizes in opposition to "service."

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Accordingly, we adhere to our decision 45 Comp. Gen. 680 (1966). Time in leave-without-pay status is time in Government service within the meaning of 5 U.S.C. § 5724(i) (1970) and the service agreements executed pursuant to it. Accordingly, to the extent that relocation expenses incurred are proper and payable, the money advanced should not be recovered.

R.F. HENNING

Comptroller General
of the United States