



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Petty Officer First Class Patrick K. Reedy, USN (Retired)—
Waiver Request

File: B-257862

Date: January 17, 1995

DIGEST

A retired Navy member's request for waiver of a debt to the United States under 10 U.S.C. § 2774 is denied. The debt arose when an extra paycheck was issued to him after his retirement and deposited in his bank account. Because the member should have been aware of the overpayment, and should have called it to the attention of the Navy, he is not without fault, and waiver is therefore precluded.

DECISION

This is in response to an appeal of a Claims Group settlement which denied the request of Petty Officer First Class (PO) Patrick K. Reedy, USN (Retired), for waiver of the government's claim against him for funds he erroneously received after retirement from the Navy. We affirm the Claims Group's settlement.

PO Reedy retired on April 23, 1993. At that time he received a final payment of \$3,276.31 which included all the military pay and allowances due him at that time. On the next military payday, April 30, 1993, a check for active duty pay and allowances was deposited in PO Reedy's bank account, resulting in an overpayment of \$1,051.56.

PO Reedy states that he was unaware that he was overpaid and that repayment will result in financial hardship.

Section 2774 of title 10, United States Code, authorizes the Comptroller General to waive claims for erroneous payments to members or former members of the uniformed services, for pay and allowances, if collection of the claim would be against equity and good conscience and not in the best interest of the United States. Waiver cannot be granted if there exists any indication of fraud, fault, misrepresentation, or lack of good faith by the member or any other person in accepting the overpayment.

The standard we employ in determining whether a member was at fault in accepting an overpayment is whether, under the particular circumstances involved, a reasonable person

should have been aware that he was receiving more than his entitlement. Susar, L. Carroll, B-252672, Sept. 20, 1993.

Here, PO Reedy received a final payment on April 23, 1993, which included the pay and allowances to which he was entitled for the month of April. When a paycheck was deposited in his bank account for military pay and allowances on April 30, 1993, the next military payday, he should have questioned his entitlement to the money and contacted the proper authorities to inquire about it. B-252672, supra. Since he did not make any inquiries concerning his entitlement, he is not without fault in the matter, and waiver cannot be granted.

Finally, PO Reedy states that repayment of his debt would cause him financial hardship. However, we have consistently held that financial hardship is not a basis for granting waiver. Accordingly, we affirm the Claims Group's denial of his request.

/s/ Seymour Efras
for Robert P. Murphy
General Counsel