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B-161229-O.M.

Apr. 20, 1967

The Comptroller General

APR 20 1967

Released

Gregory J. Ahart  
Director. CD - A. T. Samuelson

Request for instructions concerning request for relief of cashier, National Bureau of Standards, Department of Commerce

The attached letter dated March 16, 1967, from the Chief Disbursing Officer, Treasury Department, transmitted a letter dated March 9, 1967, from the Acting Secretary of Commerce, requesting that relief be authorized on behalf of James E. Miller for a shortage of funds of \$1,374.79. The relief is requested under the provisions of 3 GAO 30.2 and therefore is based on the act of August 1, 1947, as amended by the act of August 9, 1955, 31 U.S.C. 52a-1. The facts in the case do not clearly establish a basis for our granting relief under authority delegated in Comptroller General's Order No. 3.8 and the case is therefore submitted for instructions.

The relief requested is due to a physical loss of funds, by reason of theft by an unidentified person. The theft resulted in a shortage of \$1,374.79 in an advance to James E. Miller, Class "B" Cashier, National Bureau of Standards, Gaithersburg, Maryland. The cashier is bonded in the amount of \$10,000 under a Position Schedule Bond of the United Bonding Insurance Company covering employees of the Department of Commerce.

The Treasury has issued a Manual of Procedures and Instructions for Cashiers Operating under Executive Order No. 6166 which, in part, provides:

"Section 3-0305. \* \* \* Since all cash is carried at his own risk, each cashier will see \* \* \* that facilities are available for proper safeguarding it from loss or theft."

"Section 4-0402. Cashiers are personally liable for all moneys coming into their possession and are bonded to insure faithful performance of their duties."

Section 4-0401 of the above cited Cashier's Manual quotes from 31 U.S.C. 521, which provides in part that:

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"\* \* \* All public officers of whatsoever character, are required to keep safely \* \* \* all the public money collected by them, or otherwise at any time placed in their possession and custody \* \* \*."

The pertinent facts in respect to the subject loss, as derived from statements made in documents transmitted with the request for relief dated March 9, 1967, and from United States Secret Service reports on its investigation of the loss, file No. 1-15-15,935-8, are as follows:

The theft occurred at approximately 12:30 p.m. on July 11, 1966. It occurred in a locked office which was empty at the time of the theft as the cashier was eating lunch in a room adjacent to the cashier's office.

The first Secret Service report, dated July 26, 1966, contained the following description of the cashier's office.

"This office contains two entrances; one entrance is a door with the upper half containing a security screen and an opening for the passing through of funds, the second doorway is made of a security screen and located in a wall of the office which is also composed of security screen. This screen wall also contains an opening used for the disbursing of funds and immediately below this opening is a metal drawer containing a lock to be used for containing the cashier's funds."

The report also states that "At the time of the theft the funds were not kept in this locked drawer but were kept in an unlocked center desk drawer." It further states that "\* \* \* at the time of the theft a screen partition located in the one doorway was left open approximately eight inches and it is possible to reach through this opening and open the door from the outside. Members of the Guard Force and Montgomery County Police Department were able to open the screened door by manipulating the lock with a wire."

While eating his lunch, Mr. Miller heard a noise and entered his office to investigate. No one was in the office, but he encountered the suspect in the corridor outside of the screened wall. He asked the individual if he could help and the man answered "No" and walked off showing only a portion of his face. Mr. Miller did not notice anything amiss in his office and therefore left the office and completed his lunch. He discovered the theft when he returned to his office after lunch.

In the Secret Service report dated July 26, 1966, it was stated in the synopsis, that "The funds were not placed in the locked drawer provided for these funds and the administrative officers of the National Bureau of Standards believe that the agent cashier was negligent."

Because of the foregoing facts and statements, the question arises whether the cashier may be considered to have been without fault or negligence and entitled to relief under 31 U.S.C. 82a-1.

Advice is requested as to whether we may on the present record concur in the administrative determination that the loss occurred without fault or negligence on the part of the cashier and authorize relief on his behalf.

Attachment  
As stated

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Director, Civil Division

Returned. According to the Secret Service report, the "locked office" was not reasonably secure against theft. If that was the case, failure to lock the money in the drawer provided for that purpose was a negligent omission which made the theft possible. Accordingly, relief should be denied.

FRANK H. WEITZEL

Assistant Comptroller General  
of the United States

Attachment