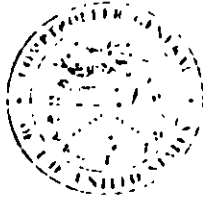


7284
DECISION



7/28/78
1002
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-167461

DATE: August 9, 1978

MATTER OF: Robert J. Crane--Claim for attorney
fees

DIGEST: Where an employee of the Federal Govern-
ment secures the service of an attorney
to assist him in recovery under unfair
labor practice proceeding and makes claim
for reimbursement for such services, in
the absence of legal authority permitting
reimbursement of those fees and certain
other expenses incident thereto, such a
claim may not be allowed.

This action is in response to correspondence from Mr. Robert J. Crane, a former Federal Aviation Administration (FAA) employee stationed at Bellingham, Washington, concerning his entitlement to be reimbursed for attorney's fees in connection with an unfair labor practice proceeding initiated by him.

The file shows that the employee made claim for backpay, travel and per diem expenses believed due in connection with an earlier unfair labor practice proceeding which he attended as a witness. That claim was turned down by the FAA on the basis of a finding that he was in a nonduty, nonofficial status during the period covered by that claim. The employee thereafter initiated an unfair labor practice proceeding and secured the services of counsel to assist him in pursuing recovery. In time, the question as to whether the FAA could use appropriated funds for the payment of the employee's claim was administratively resolved in his favor and he was reimbursed for those expenses, but not for his attorney's fees or incidental expenses incurred in connection with a trip made by him to Auburn, Washington, for counseling with his attorney prior to resolution of the claim.

The matter of those fees and incidental expenses was the subject of letter B-167461, dated February 22, 1977, addressed to the employee's attorney, which advised that "*** attorney's fees are not payable in the absence of specific statutory authority. We are unaware of any statutory authority authorizing payment of a claim for attorney's fees in connection with an unfair labor practice proceeding."

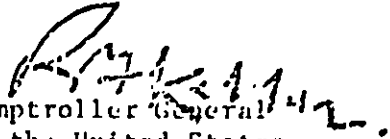
B-167461

The employee contends that following resolution of his claim, the FAA published a notice stating that he would be made whole for any loss he sustained incident to the failure of the FAA to abide by the ruling made by the Administrative Law Judge in the earlier unfair labor practice proceeding that he attended as a necessary witness. It is his view that it was absolutely necessary for him to obtain counsel in order to force compliance with that ruling.

Expenditures from public funds may only be made as authorized by law. In the absence of such authorization, such payments may not be made. We are unaware of any legal authority whereby payment of a claim for an attorney's fee and incidental expenses may be made to an employee in connection with an unfair labor practice proceeding initiated by him.

Accordingly, the earlier action disallowing the claim is sustained.

Deputy


Comptroller General
of the United States