

**DECISION**

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

FILE: B-184055

DATE: FEB 9 1976

MATTER OF:

Eduardo S. Flores' Claim under the Meritorious  
Claims Act of 1928

DIGEST:

Claim of civilian employee of U.S. Marine Corps on Okinawa for difference between amount obtained for house and furnishings and cost of replacing them, plus rent for a period following eviction from Government housing, does not contain such elements of legal liability or equity as to be deserving of consideration by Congress under the Meritorious Claims Act of 1928, even though the decision to sell house and furnishings may have been induced by the improper and subsequently revoked assignment of Government housing. See B-184492, October 2, 1975.

Mr. Eduardo S. Flores seeks redress under the Meritorious Claims Act of 1928, 31 U.S.C. 236 (1970), in the amount of \$32,739.00, which he contends is the loss he suffered as the result of an error on the part of the Government.

The pertinent circumstances giving rise to this claim, as disclosed by the file before us, are as follows. Mr. Flores, a U.S. citizen, is a civilian employee of the U.S. Marine Corps at Camp Smedley D. Butler, Okinawa. On February 14, 1973, he was assigned Government housing which was administered by the Department of the Army under an interservice support agreement. The authorizing official mistakenly believed that Mr. Flores met all requirements, including eligibility for a living quarters allowance, imposed by the governing authority, Army Regulation 210-50. In fact, he had been finally adjudged ineligible for this allowance some 5 years earlier. Mr. Flores moved into the assigned housing on March 26, 1973, and sold his privately owned house and furnishings on March 30, 1973. A month or so later the error was discovered, Mr. Flores was informed, and he was advised to be prepared to pay rent for the period he occupied Government housing and to seek other accommodations. On June 21, 1973, he was given formal notice

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to vacate the premises before August 20, 1973, and on June 25, 1973, he filed a grievance contesting his eviction.

Mr. Flores moved out of the house before the specified date but the final decision on his grievance was not rendered until October 9, 1973. That decision held, in substance, (1) that there was no merit to Mr. Flores' contention that the living quarters allowance eligibility requirement, which became effective February 1, 1972, had not been enforced in Okinawa before his occupancy of Government housing in March of 1973, and therefore should not be applied to him; (2) that he was ineligible for Government housing ab initio; (3) that there were no extenuating circumstances in his case justifying an exception; and (4) that his eviction was therefore proper.

Thereupon, on November 14, 1973, Mr. Flores filed a claim at Camp Butler for \$32,739.00 which he alleges is the difference between the amount he obtained for the house and furnishings he sold, \$6,629.00, and the cost of another house and furnishings, \$38,760.00, plus rent in the amount of \$608.00 for 4 months following his eviction. This claim was forwarded to the Claims Division, Office of The Judge Advocate General, Department of the Air Force, Washington, D.C., where it was denied on June 7, 1974, and Mr. Flores was advised that he might seek consideration of the matter by the General Accounting Office under the provisions of the Meritorious Claims Act of 1928, supra. Consequently, he submitted his claim to the Claims Division of the General Accounting Office by letter dated December 3, 1974, and it has been referred to us for decision.

It is not clear from the file whether Mr. Flores has, in fact, purchased another house and furnishings, why there is such a great disparity between the price received for the house and furnishings sold and the cost of replacing them, or how the period for which rent is claimed was arrived at. However, the answers to these questions are not essential for the disposition of this case. We find that the administrative determination that this claim may not lawfully be paid from any appropriation heretofore made is correct and that the remedy provided by the Meritorious Claims Act of 1928, supra, may not be properly invoked in this case. This act provides that a claim, not otherwise lawfully payable, may be submitted to the Congress for consideration when, in our judgment, it contains such elements of legal liability or equity

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as to warrant relief by private legislation. This is an extraordinary remedy and its proper use is limited to unique situations where claimants, through no fault of their own, have suffered such harshly unjust or grossly unfair treatment that failure to grant them this avenue for seeking redress would be unconscionable. Rarely, if ever, should it be used in a situation which is likely to recur since such use would constitute preferential treatment for the claimant over others who are or may become similarly situated.

Mr. Flores' claim falls short of these requirements. His contention that he should be reimbursed for rent for a period following his eviction from Government housing is without merit since the eviction was proper and he was not eligible for a living quarters allowance. Moreover, while his decision to sell his house and furnishings may have been influenced by his assignment to Government housing, the sale was a completely voluntary act on his part which was in no way required by the Government. Others who have suffered losses incident to their Government service under much more compelling circumstances have been found ineligible for relief under this act. See B-184492, October 2, 1975, which denied this remedy to a member of the uniformed services who suffered a substantial loss in disposing of his home, even though the sale was occasioned by a regulation requiring him to move closer to his base.

Accordingly we hold that Mr. Flores' claim does not contain such elements of legal liability or equity as are contemplated by the Meritorious Claims Act of 1928, supra, and therefore, it will not be submitted to the Congress under the provisions of that law.

In reaching this decision it was not necessary to determine whether or not Mr. Flores had actual or constructive notice of the defect in his qualifications for Government housing and was therefore estopped from invoking the principles of equity, since the decision would be the same in either case. Neither was it necessary to consider the question of the liability of the Government for the erroneous or wrongful acts of its employees since Mr. Flores did not suffer any loss as a direct result of any such act.

R. F. KELLER

Deputy Comptroller General  
of the United States