

DOCUMENT RESUME

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[Reimbursement of Advanced Sick Leave]. B-188903. July 6, 1977.
2 pp.

Decision re: Jay Sisco; by Robert F. Keller, Comptroller
General.

Issue Area: Personnel Management and Compensation: Compensation
(305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel
Management (805).

Organization Concerned: Department of the Air Force: Travis AFB,
CA.

Authority: 5 C.F.R. 630.209. B-177357 (1973). B-174466 (1971).

Capt. R. J. McDonald, Accounting and Finance Officer,
Travis Air Force Base, requested a decision on reimbursement for
advanced sick leave for employee prior to retirement. After
retirement, the monetary equivalent of advanced sick leave was
collected from accrued annual leave and by setoff from
retirement fund. However, since he was disabled at time of
retirement, with ample medical documentation, agency may
determine that disability caused retirement. In such
circumstances, he may be reimbursed for all sick leave.
(Author/DJM)

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DECISION

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

*J. Annicelli
Civ. Per.*

FILE: B-188903

DATE: July 6, 1977

MATTER OF: Jay Sisco - Reimbursement of advanced sick leave

DIGEST:

Prior to voluntary retirement, civilian employee had been advanced 240 hours of sick leave. After he retired, the money equivalent of advanced sick leave was collected back from his accrued annual leave and by set-off from his retirement fund. In view of evidence that employee was disabled at time of retirement, employing agency may make determination that retirement was due to disability. In such event, employee's claim for money equivalent of advanced sick leave previously collected back from annual leave and by set-off from retirement fund may be paid.

This is in response to the request, for an advance decision, dated March 11, 1977, submitted by Captain R. J. McDonald, Accounting and Finance Officer, Travis Air Force Base, Department of the Air Force, concerning repayment of an advancement of sick leave made to Mr. Jay Sisco prior to his retirement.

The record shows that Jay Sisco, a civilian employee of the Air Force, retired voluntarily on July 31, 1974. Prior to his retirement, Mr. Sisco had been advanced 240 hours of sick leave. His balance of 69 hours of annual leave accrued at the date of retirement was used to reduce the negative balance of sick leave to 171 hours. The negative balance of sick leave was reconciled by a retirement set-off, and \$1,138.86 was collected from his retirement fund at the Bureau of Retirement, Insurance, and Occupational Health of the Civil Service Commission.

Although he had elected optional in lieu of disability retirement on July 31, 1974, Mr. Sisco now contends that at the time of his retirement he was eligible for disability retirement. Therefore, he has requested a refund of the money equivalent of 240 hours of advanced sick leave, a total of \$1,598.40 (\$1,138.86 collected from his retirement fund and 69 hours of annual leave used to reduce his negative balance of sick leave at retirement).

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The Accounting and Finance Officer questions whether Mr. Sisco may be reimbursed the equivalent of 240 hours of sick leave, \$1,598.40, previously collected from him.

The record contains a certificate from a doctor who had treated Mr. Sisco, dated March 11, 1976, which substantiates Mr. Sisco's allegation that he suffered a prolonged illness and that he was disabled at the time of his retirement. In addition, the submission contains a certificate from the Civil Service Commission which indicates that at the time of Mr. Sisco's voluntary retirement he would have been eligible for wage continuation benefits (disability retirement annuity).

Section 630.209 of title 5 of the Code of Federal Regulations is to the effect that any employee who is indebted for unearned leave and who dies or retires for disability or is separated or resigns on such account is not required to refund the amount of the indebtedness. The basis of separation is a matter of fact to be determined by the employee's agency on medical evidence acceptable to it.

We have recognized in our decisions that an employee might choose to retire for age and service even though he may otherwise be entitled to retire for disability. See B-177357, April 16, 1973.

The acceptability of the medical evidence presented is a matter primarily for administrative consideration and determination by the employing agency. B-174466, December 27, 1971. In view of the Civil Service Commission's and the doctor's certifications referred to above, our Office would have no objection if the Department of the Air Force determines that Mr. Sisco's retirement was because of disability rather than voluntary. In such event, the claim of Mr. Jay Sisco for \$1,598.40, the equivalent of 240 hours of sick leave, may properly be reimbursed to him.


Deputy Comptroller General
of the United States