

DECISION



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

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FILE: B-192713

DATE: September 20, 1978

MATTER OF: Mr. Ronald P. Hopkins

DIGEST: When records which would document and verify the validity of a claim are destroyed pursuant to the law relating to the disposal of old records (ch. 33, title 44, U. S. C. and ch. 101, part 101-11, title 41, C. F. R.), the accounting officers of the Government may not give favorable consideration to such claim.

This action is in response to a letter dated May 12, 1978, addressed to the United States Army Finance and Accounting Center from Mr. Ronald P. Hopkins, concerning his entitlement to payment for accrued leave believed due as a result of a recent upgrading of the discharge he received on separation from the United States Army in 1963.

The matter of Mr. Hopkins' claim was the subject of settlement by our Claims Division dated March 22, 1978, which allowed him additional sums for the travel he performed from his place of separation to his home, but disallowed payment for accrued leave for the reason that his pay and leave records had been destroyed pursuant to law.

The file in Mr. Hopkins' case shows that he was separated from the Army effective December 9, 1963, and the discharge he received characterized his service as being under other than honorable conditions. In 1977, apparently at Mr. Hopkins' request, the Army Discharge Review Board considered the matter of his type of discharge and recommended that it be upgraded. On review by the Secretary of the Army, it was concluded that his discharge was to be administratively changed to be under honorable conditions.

As a result of that change, certain monetary benefits which were previously unavailable to Mr. Hopkins accrued. They were, additional travel allowances and entitlement to be paid for accrued but unused leave. Upon presentation of a claim by him to the Finance Center for such benefits, the matter was referred to our Claims Division for disposition with the notation that all pay and leave records for service members separated from the Army prior to 1964 were destroyed.

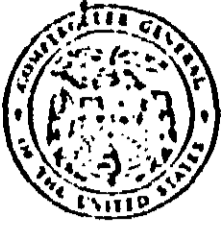
B-192713

As a basic proposition, the burden of proof as to the validity of a claim against the United States is on the person making such claim. Ordinarily, information upon which such validity is established and verified can be found in records maintained by the Government. However, where such records have been destroyed pursuant to the law relating to disposal of old records (chapter 33 of title 44, United States Code, and title 41, Code of Federal Regulations, Chapter 101, part 101-11, Records Management), the accounting office of the Government may not give favorable consideration to such claims.

As the foregoing relates to Mr. Hopkins' claim, the DOD Forms 214 issued to him (the original as well as the corrected copy), show that he was not paid for accrued leave upon his separation. However, there is nothing contained therein which shows the days, if any, of unused leave which he may have accrued as of the time of his discharge. In the absence of other documentation we are unable to determine if he had any unused accrued leave to his credit at that time, and if so, the number of days of such leave. Since the records which would have documented his claim have been destroyed pursuant to law, there is no basis upon which this Office may favorably consider the matter.

Accordingly, the action taken by our Claims Division is sustained.


Deputy Comptroller General
of the United States



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

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IN REPLY
REFER TO: B-192713

September 20, 1978

The Honorable John Brademas
Member, United States House
of Representatives
203 Federal Building
South Bend, Indiana 46601

Dear Mr. Brademas:

Reference is made to your recent communication with the United States Army Accounting and Finance Center, concerning the claim of your constituent, Mr. Ronald P. Hopkins, 5509 E. 450 S., La Porte, Indiana 46350, for payment of accrued leave believed due as a result of a recent upgrading of the discharge he received on separation from the United States Army in 1968.

By decision B-192713, dated today, copy enclosed, we sustained the earlier disallowance of his claim for the reason that since the documenting records were destroyed we could not determine the number of days of leave, if any, he may have had to his credit on separation.

We regret a favorable reply could not be given your constituent.

Sincerely yours,

R. K. Miller
Deputy Comptroller General
of the United States

Enclosure