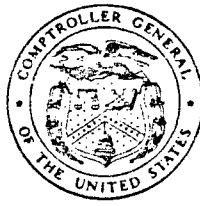


DECISION



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

18028

McCrull

FILE: B-202273

DATE: May 7, 1981

MATTER OF: Robert G. Raske, Jr.

DIGEST: An employee seeks reimbursement of \$129 in check overdraft charges which resulted from the inadvertent failure of the Federal Aviation Administration to deposit the employee's paycheck with the employee's bank. The failure was due to the processing of the employee's address change one pay period earlier than requested. The employee may not recover the \$129 since, absent statutory authority to the contrary, the Government is not liable for the unauthorized acts of its officers and employees even though committed in the performance of their official duties. German Bank v. United States, 148 U.S. 573 (1893).

CNG 00171

This action is brought by the Professional Air Traffic Controllers Organization on behalf of Robert G. Raske, Jr. A decision is being rendered pursuant to Part 21 of title 4 of the Code of Federal Regulations, as amended August 21, 1980. See 45 F.R. 55689. In accordance with 4 C.F.R. 21.4 the Federal Aviation Administration (FAA) has been served with a copy of the request for a decision which concerns its denial of Mr. Raske's claim for reimbursement of ~~\$129 in~~ overdraft charges which he incurred when that agency erroneously failed to deposit his paycheck with his bank. For the reasons discussed below, we affirm the disallowance of Mr. Raske's claim.

[Request for

On July 17, 1980, Mr. Raske, an FAA Air Traffic Control Specialist, submitted a Form 1370-8 (Salary Disposition Record) to his payroll office in anticipation of his impending permanent change of station from Charlotte, North Carolina, to Vero Beach, Florida. By Form 1370-8 Mr. Raske, whose paychecks were then being mailed to the First Union National Bank in Charlotte, requested that his paycheck be mailed to him at a post office box in Vero Beach, effective pay period 17 for the paycheck dated August 18, 1980. Due to an administrative error, the payroll office processed the address change in pay period 16 which resulted in Mr. Raske's

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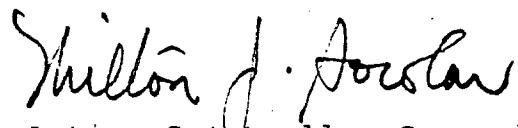
B-202273

paycheck for that period not being deposited with the First Union National Bank. Mr. Raske, unaware of the error, wrote several checks on his First Union National Bank account for which funds were insufficient and for which he incurred \$129 in overdraft charges.

The applicable statutory authority which entitles a Government employee to elect to have his or her paycheck deposited directly into that employee's bank account is found in 31 U.S.C. § 492(b)(1) (1976). Section 209.4 of title 31 of the Code of Federal Regulations establishes certain procedures for the use of this direct deposit service. However, neither that statute nor the regulations authorize the Government to reimburse its employees for service charges on checks drawn on insufficient funds where the Government has undertaken but failed to deposit employees' paychecks directly with the employees' banks. In addition, we are unaware of any other statutory authority that would authorize this Office to allow Mr. Raske's claim. Without the proper statutory authority, we are unable to reimburse an employee even under the most compelling circumstances. See B-187245, October 7, 1976; B-173783, March 2, 1976.

While it is regrettable that the claimant incurred substantial charges which he feels resulted solely from the error of a Government employee, it may be noted that under the direct paycheck deposit authority the employee remains responsible for making sure that his bank balance is sufficient to cover the checks he writes. Further, the rule is well established that the Government is not liable for the unauthorized acts of its officers and employees even though those acts were committed in the performance of their official duties. German Bank v. United States, 148 U.S. 573 (1893); United States v. Hall, 588 F.2d 1214 (1978); Posey v. United States, 449 F.2d 228 (1971).

We affirm the disallowance of Mr. Raske's claim.



Acting Comptroller General
of the United States