The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Fraudulent Travel Claims

File: B-220119.1

Date: November 14, 1988

DIGEST

1. Evidence that claimant submitted false receipts in support of vouchers for travel and transportation services that were not rendered and expenses that were not incurred is sufficient to overcome the presumption in favor of honesty and fair dealing.

2. Agency that sustains its burden of proof on fraudulent claims is entitled to recoupment. Recoupment by deductions from employee's current pay account is consistent with the purpose of 31 U.S.C. § 3711(c)(1).

3. Claimant who submitted fraudulent claims is not entitled to reimbursement even after expenses for travel and transportation are actually incurred approximately one year later.

DECISION

The claimant was removed from employment after an investigation disclosed that he had submitted fraudulent vouchers. He was subsequently reinstated pursuant to a negotiated settlement agreement which did not address his indebtedness to the government as a result of the fraudulent vouchers or the method of recoupment. The claimant now asks us to determine that the vouchers were not fraudulent and to order the agency to return all money recovered by payroll deductions. We hold that (1) the evidence in the record is sufficient to show that the claimant submitted fraudulent vouchers and (2) recoupment by payroll deductions was appropriate.

BACKGROUND

The claimant in this case is employed by the Department of the Army, Armament Research and Development Center

(USAARDC), Picatinny Arsenal, Dover, New Jersey. He was issued permanent change of station (PCS) travel orders in January 1980 authorizing travel and transportation costs for himself and his family from Salem, Oregon, to Sparta, New Jersey. During September, October and November of 1980, the claimant received payment based on vouchers he submitted to the Army Finance and Accounting Office claiming reimbursement for his travel and transportation costs in the amount of $6,941.73. The claimant and his family did not actually travel to New Jersey until July 1981. He did not actually move his household goods until December 1981.

An investigation conducted by the Department of Defense Inspector General disclosed that the receipts the claimant submitted in support of the vouchers for travel and transportation were false. As a result of the investigation, the claimant was removed from federal service in August 1984 on grounds of fraud relating to the claims he submitted in 1980.

In September 1984 the National Federation of Federal Employees, Local 1437 (NFFE), invoked arbitration on the claimant's behalf during grievance proceedings brought to contest his removal. A pre-hearing settlement agreement reached between the claimant, the NFFE and the USAARDC stipulated that the claimant's removal would be cancelled and a suspension without pay substituted in place of the removal. The agreement was silent as to whether the claims were fraudulent, as to the claimant's indebtedness to the government and as to the method of government recoupment.

In April 1985 the Finance and Accounting Officer at USAARDC, Dover, notified the claimant in writing that he was indebted to the government for $6,941.73, the amount paid based upon the fraudulent vouchers submitted in 1980, and that the agency intended to initiate collection by payroll deduction in May 1985.

The NFFE again invoked arbitration on the claimant's behalf to contest the agency's proposed collection action. Simultaneously, the agency Finance and Accounting Officer requested a decision from the Comptroller General on the claimant's liability. We declined jurisdiction pending the outcome of the arbitration.1/ After a hearing in which the claimant and an attorney for NFFE filed appearances, the arbitrator determined that the issue of recoupment of monies

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1/ National Federation of Federal Employees, Local 1437, B-220119, Dec. 9, 1985.

paid the claimant was not arbitrable. The NFFE unsuccessfully sought a review of this determination from the Federal Labor Relations Authority (FLRA) which held that it had no jurisdiction to review the NFFE's exceptions to the arbitrator's determination.2/

The claimant now requests us to determine that he did not commit fraud against the government and to order the agency to refund monies which have been recouped from him through payroll deductions and cease making the deductions from his paycheck.

ANALYSIS AND CONCLUSION

Our prior decisions express a clear standard with respect to alleged fraudulent claims against the government:

> ". . . the burden of establishing fraud rests upon the party alleging the same and must be proven by evidence sufficient to overcome the existing presumption in favor of honesty and fair dealing. Circumstantial evidence is competent for this purpose, provided it affords a clear inference of fraud and amounts to more than suspicion or conjecture. However, if, in any case, the circumstances are as consistent with honesty and good faith as with dishonesty, the inference of honesty is required to be drawn." Charles W. Hahn, B-187975, July 28, 1977.

The agency has met its burden of proof in this case since its investigation clearly reveals that the employee submitted fraudulent receipts in support of claims for funds from the government. The claimant admitted during the investigation that he and not his travel agency placed the "Paid in Full, July 6, 1980" notation on the statement submitted; that the airline tickets described on the voucher were never issued or paid for; that his family did not actually leave their home in Oregon until July 31, 1981; and that he knew when he prepared and submitted the travel vouchers that the tickets were not purchased from the travel agent identified on the voucher. The investigation further revealed that the claimant knew the transportation document he submitted was an estimate and that the moving company

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2/ The FLRA concluded that the arbitrator's determination related to a matter covered by 5 U.S.C. § 7512 (removal), which is excepted from FLRA review pursuant to 5 U.S.C. § 7122(a). See, NFFE, Local 1437, 24 FLRA No. 79 (Dec. 24, 1986).

identified on the voucher did not actually perform any moving services in 1980 for him. The claimant admitted that he did not move his household goods until December 1981 and that he used a different moving company from the one identified in the submitted voucher.

Counsel for the claimant advances several defenses on his behalf. First, counsel argues that since the claimant had no prior experience with travel and transportation vouchers, he reasonably believed that if he did not file the vouchers within 6 months he would not be reimbursed at all. However, the agency Finance Accounting Office indicated that an employee is usually informed that he is permitted 2 years from his reporting date to move his household goods and transport his family based on PCS orders.3/ In any event, the claimant's concern about a need to file for reimbursement within 6 months obviously would not justify submitting fraudulent claims.

Second, counsel suggests that the settlement agreement claimant entered into precludes the agency from initiating recoupment from the claimant. The settlement agreement, however, is silent on the issue of recoupment. Furthermore, the agency's cancellation of claimant's removal is not dispositive of the fraudulent claims. We have consistently held that where differing standards of proof apply, a prior action is not dispositive of a later recoupment action. 69 Comp. Gen. 357 (1981). Thus, the claimant's reinstatement pursuant to the agreement does not dispose of the indebtedness. There is no reason to even suspect that failure to raise the issue in the agreement meant that the government waived recoupment.

Counsel for claimant advances the defense that the vouchers are merely inaccurate and not fraudulent. However, the evidence clearly shows that the claimant submitted false receipts in support of vouchers for travel and transportation services that were not rendered. This evidence standing alone is "sufficient to overcome the existing presumption in favor of honesty and fair dealing." Hahn, supra.

Applying the Hahn standard to the facts in this case, we find that the agency has sustained its burden of proof on the fraudulent claims. Recoupment by payroll deductions from employee's current pay account is consistent with 31 U.S.C. § 3711(c)(1).

3/ See, Federal Travel Regulations, para. 2-1.5a(2).

Finally, the claimant cannot obtain reimbursement on the basis of the travel and transportation costs that actually were incurred in 1981 subsequent to the fraudulent claims. We view the fraudulent submissions as vitiating any payment of travel and transportation claims arising out of this transaction. See Clyde L. Brown, B-206543, Sept. 8, 1982, and cases cited; 44 Comp. Gen. 110, 115-116 (1964). But cf., 41 Comp. Gen. 285, 287-288 (1961).

Shelton J. Dowlan

for Comptroller General
of the United States