



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Reconsideration of Jennifer L. Johnson - Breach of  
Service Agreement  
File: B-230338.2  
Date: June 2, 1989

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### DIGEST

Upon reconsideration we affirm our prior decision that an employee, who transferred to a new duty station but failed to complete her 12-month service agreement, must repay the relocation expenses she was reimbursed. The service agreement is required by statute in order to authorize the payment of relocation expenses, and the agency was not arbitrary or capricious in demanding repayment.

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### DECISION

In this decision we reconsider our decision in Jennifer L. Johnson, B-230338, June 21, 1988, in which we held that an employee was obligated to repay the government the amount expended for her relocation expenses. For the reasons set forth below, we sustain our prior decision.

### BACKGROUND

The facts, which are fully explained in our prior decision, are, briefly stated, that Ms. Jennifer L. Johnson was transferred by the Department of Agriculture from Sioux Falls, South Dakota, to Des Moines, Iowa, effective April 4, 1985. In connection with the agency authorizing her relocation expenses for this transfer, she signed an agreement to remain in government service for a period of 12 months following the effective date of her transfer unless she was separated for reasons beyond her control and acceptable to the agency.

Ms. Johnson resigned on February 7, 1986, after completing only 10 months of service at her new duty station, and the agency demanded repayment of her relocation expenses. We held in our decision in Johnson, supra, that we would not overturn the determination of the agency as to whether the

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separation was beyond the employee's control and acceptable to the agency.1/

In requesting reconsideration, Ms. Johnson's attorney argues that her "contract" to repay the relocation expenses must fail for lack of either "free choice" or consideration. He also contends that the service agreement is unconstitutional and that it violates public policy. In addition, her attorney argues that the determination by the agency concerning her separation was arbitrary and capricious. Finally, her attorney argues that the agency accepted her offer of a prorated payment and is now estopped from further collection of this debt.

#### OPINION

We reject the arguments that Ms. Johnson's 12-month service agreement fails for lack of free choice and lack of consideration, that it is unconstitutional, or that it violates public policy. The statute and implementing regulations explicitly state that before relocation expenses may be allowed, the employee must agree to remain in government service for 12 months following the transfer, unless separated for reasons beyond the employee's control and acceptable to the agency concerned.2/ We know of no basis to conclude that there is a lack of free choice or lack of consideration in such an agreement, that the agreement is unconstitutional, or that it violates public policy.

The next argument is that the agency was arbitrary and capricious in its determination that Ms. Johnson must repay the relocation expenses she received. We disagree. As we stated in our prior decision, Ms. Johnson's separation from government service before completing 12 months of service was due to her desire to live elsewhere and to take a job in the private sector. We cannot say that the agency was arbitrary or capricious in finding that such a separation was within her control and that the reason for her separation was not acceptable to the agency.

Finally, Ms. Johnson's attorney argues that the partial payment of her relocation expenses was intended to be a

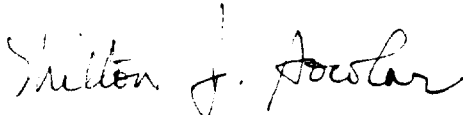
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1/ This claim was also denied by our Claims Group, Z-2861011, Sept. 2, 1987.

2/ 5 U.S.C. § 5724(i) (Supp. IV 1986); Federal Travel Regulations (FTR), para. 2-1.5(a)(1)(a) (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1985).

compromise and was wrongfully converted by Agriculture. Our reading of the record does not support this contention. Rather, the government, just as any ordinary creditor, is entitled to receive the entire amount of any debt which it is owed, and there is no indication in the record before us that Agriculture accepted this payment of \$78 in satisfaction or compromise of the indebtedness which exceeds \$4,000.

Accordingly, upon reconsideration we affirm our decision in Jennifer L. Johnson, B-230338, supra.

A handwritten signature in cursive script, reading "Milton J. Fowler".

**Acting** Comptroller General  
of the United States