



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Priscilla M. Worrell - Lump-Sum Leave Payment

File: B-231762

Date: July 13, 1989

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### DIGEST

In August 1987, immediately before beginning a 90-day temporary appointment with the Army, the claimant was notified that she had prevailed in an equal employment opportunity complaint against the Veterans Administration (VA). As a result, she was reinstated as a VA employee with backpay and restoration of leave from February 1984 until she started working for the Army. In view of her reinstatement by VA, she is treated as an employee who is transferred from one agency to another. Consequently, she first became entitled to a lump-sum leave payment at the end of her 90-day temporary appointment, and the Army must pay her for her full annual leave balance, including restored leave.

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### DECISION

Lieutenant Colonel L. M. Hacker, Finance and Accounting Officer, U.S. Army, Fort Campbell, Kentucky, requests an advance decision regarding the Army's liability for a lump-sum leave payment due Ms. Priscilla M. Worrell who held a 90-day temporary nursing assistant position with the Army. We hold that the Army is liable for the payment.

Ms. Worrell was selected to fill a 90-day temporary position, commencing on August 31, 1987, as a nursing assistant, GS-04, at the Blanchfield Army Community Hospital, U.S. Army Medical Department Activity, Fort Campbell, Kentucky. After her selection for the position, she produced a letter from the Veterans Administration (VA), Beckley, West Virginia, dated August 20, 1987, informing her that the Equal Employment Opportunity Commission had favorably decided her discrimination complaint and that the VA had reinstated her effective February 25, 1984. She was

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given until September 20, 1987, to report for duty with the VA or be terminated. She was awarded backpay and benefits, including annual and sick leave, from February 25, 1984, as if she had remained on the rolls.

Ms. Worrell accepted the Army position which effectively resulted in her being transferred from VA to the Army as of August 31, 1987. As of that date, she had 342 hours of annual leave, 368 hours of sick leave, and 100 hours of restored leave that were transferred to her leave accounts with the Army.

When Ms. Worrell's temporary appointment expired on November 28, 1987, she was paid by the Army for the 36 hours of annual leave accrued during her employment there. The Army refused, however, to pay the annual and restored leave with which she had been credited as a result of her complaint against the VA. The Army contends that it should not be responsible for paying a leave settlement of such magnitude resulting from VA's wrongful actions against Ms. Worrell. Moreover, the Army emphasizes that it had no knowledge of Ms. Worrell's large leave balance when she was hired.

The statutory provisions governing annual leave are in chapter 63 of title 5, United States Code (1982). The implementing regulations provide that when an employee moves from one position to another under the same leave system without a break in service, the annual leave account is certified to the employing agency for credit or charge. 5 C.F.R. § 630.501(a); FPM chapter 630-13, subchapter 5-1a(1). Here, Ms. Worrell was reinstated to the VA as if she had never left and when she began her appointment at Fort Campbell, she moved from a position with the VA to another one with the Army without a break in service. Her leave balances were properly transferred with her and she was not entitled to an accrued leave settlement at that time. See Willie W. Louie, 59 Comp. Gen. 335, 337 (1980).

Under 5 U.S.C. § 5551, an employee is entitled to receive a lump-sum payment for annual leave balances only when the employee is separated from the service. Ms. Worrell's separation from federal service took place at Fort Campbell on November 28, 1987. That is when her entitlement to an accrued leave settlement vested, and the Army must pay it. See 33 Comp. Gen. 85 (1953); John L. Swigert, Jr., B-191713, May 22, 1978.

While the specific factual situation in this case is unusual, the general situation is merely one in which an agency must pay the leave balance of a transferred employee

who earned the leave in another agency. If, for example, an employee with 240 or more hours of leave transfers to another agency and then leaves federal service after a brief period, the new agency would have to pay the employee for the full annual leave balance due.

Accordingly, the Army must pay Ms. Worrell for the 342 hours of accumulated annual and the 100 hours of restored leave credited to her account as a result of her successful discrimination complaint against the VA. The voucher submitted to us is returned for payment.

*for James F. Hackman*  
Comptroller General  
of the United States