Text as published on gao.gov, https://www.gao.gov/products/b-197927, archived 2026-08-24. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-197927, Sep 12, 1980

Number: B-197927

Date: 1980-09-12

B-197927, SEP 12, 1980

DIGEST: 1. HUD EMPLOYEE WHO WAS ROBBED OF HIS $150 TRAVEL ADVANCE PRIOR TO SCHEDULED DEPARTURE ON TEMPORARY DUTY, MAY NOT BE RELIEVED OF LIABILITY TO THE UNITED STATES FOR SUCH FUNDS. SINCE TRAVEL ADVANCES ARE CONSIDERED LOANS, AND ARE THE EMPLOYEE'S PERSONAL FUNDS, THEY ARE NOT FUNDS OF THE UNITED STATES WHICH THE EMPLOYEE MAY ACCOUNT FOR EITHER BY SHOWING THEY WERE SPENT FOR AUTHORIZED PURPOSES OR WERE LOST THROUGH NO FAULT OF THE EMPLOYEE. SEE 54 COMP.GEN. 190 (1974) AND B-183489, JUNE 30, 1975. 2. EMPLOYEE WHO WAS ROBBED OF $150 TRAVEL ADVANCE BEFORE DEPARTING FOR TEMPORARY DUTY APPARENTLY WOULD NOT BE ABLE TO RECOVER THOSE FUNDS UNDER 31 U.S.C. 240-243 (1976), SINCE IMPLEMENTING AGENCY REGULATIONS RESTRICT ALLOWANCE OF CLAIMS FOR LOSS OF MONEY OR CURRENCY TO LOSSES INCIDENT TO FIRE, FLOOD, HURRICANE, NATURAL DISASTERS, OR THEFT FROM ASSIGNED GOVERNMENT QUARTERS.

JOEL S. POSNER - LOSS BY THEFT OF ADVANCE TRAVEL FUNDS:

THE ISSUE PRESENTED IS WHETHER MR. JOEL S. POSNER, AN EMPLOYEE OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), MAY BE RELIEVED OF LIABILITY FOR THE LOSS BY THEFT OF $150 IN CASH REPRESENTING AN ADVANCE OF TRAVEL FUNDS PAID TO HIM BY HIS AGENCY. THE QUESTION WAS SUBMITTED FOR DECISION BY MAY V. SMITH, AUTHORIZED CERTIFYING OFFICER, HUD, REGION IX, SAN FRANCISCO, CALIFORNIA. FOR THE REASONS THAT FOLLOW, MR. POSNER MAY NOT BE RELIEVED OF LIABILITY.

MR. POSNER RECEIVED A CASH TRAVEL ADVANCE ON JANUARY 4, 1980, IN THE AMOUNT OF $150 TO COVER TRAVEL EXPENSES FOR HIS PLANNED TEMPORARY DUTY AT COLUMBIA, MARYLAND, DURING THE PERIOD JANUARY 7-9, 1980. ON THE EVENING OF JANUARY 4, 1980, WHILE STILL IN SAN FRANCISCO, MR. POSNER WAS HELD UP AT GUNPOINT AND HIS CASH ADVANCE, AIRLINE TICKET, AS WELL AS CREDIT CARDS, JEWELRY, ETC., WERE TAKEN. A POLICE REPORT WAS FILED, AND THE AGENCY HAS BILLED THE AIRLINE FOR A REFUND ON THE UNUSED AIRLINE TICKET.

ON THE BASIS OF THE FOREGOING, A DECISION IS REQUESTED AS TO WHETHER MR. POSNER MAY BE RELIEVED OF LIABILITY FOR THE STOLEN $150 TRAVEL ADVANCE SINCE HE NEVER DEPARTED FROM HIS OFFICIAL DUTY STATION TO PERFORM THE INTENDED TEMPORARY DUTY AT COLUMBIA, MARYLAND. THE SUBMISSION CITES OUR DECISION B-180672, SEPTEMBER 5, 1974 (54 COMP.GEN. 190), DENYING RELIEF FROM LIABILITY IN A SIMILAR "THEFT" SITUATION OCCURRING AT AN EMPLOYEE'S TEMPORARY DUTY LOCATION.

TRAVEL ADVANCEMENTS ARE AUTHORIZED UNDER 5 U.S.C. 5705 (1976), WHICH PROVIDES THAT "AN AGENCY MAY ADVANCE *** TO AN EMPLOYEE ENTITLED TO PER DIEM OR MILEAGE ALLOWANCES *** A SUM CONSIDERED ADVISABLE WITH REGARD TO THE CHARACTER AND PROBABLE DURATION OF THE TRAVEL TO BE PERFORMED. A SUM ADVANCED AND NOT USED FOR

ALLOWABLE TRAVEL EXPENSES IS RECOVERABLE FROM THE EMPLOYEE ***." IN CONSONANCE WITH THE FOREGOING, THE FEDERAL TRAVEL REGULATIONS (FTR) (FPMR 101-7) (MAY 1973), PARA. 1 10.3, PROVIDES AUTHORITY TO ADVANCE FUNDS TO PAY FOR AN EMPLOYEE'S TRAVEL COSTS. WITH RESPECT TO THE RECOVERY OF ADVANCES, THE REGULATION PROVIDES IN PERTINENT PART: "IT SHALL BE THE RESPONSIBILITY OF THE HEAD OF EACH AGENCY OR HIS DESIGNEE TO ENSURE THAT THE AMOUNT PREVIOUSLY ADVANCED IS DEDUCTED FROM THE TOTAL EXPENSES ALLOWED OR THAT IT IS OTHERWISE RECOVERED." FTR PARA. 1-10.3C(1). IT ALSO PROVIDES THAT ADVANCES NOT FULLY RECOVERED BY DEDUCTION FROM REIMBURSEMENT VOUCHERS OR VOLUNTARY PAYMENTS SHALL BE DEDUCTED FROM THE SALARY DUE OR RETIREMENT CREDIT OR OTHERWISE OF THE PERSON TO WHOM THE ADVANCE WAS MADE. FTR PARA. 1-10.3C(3).

THE REGULATION CONTAINS NO PROVISION CONCERNING THE RESPONSIBILITY OF THE EMPLOYEE IN THE EVENT THE MONEY ADVANCED TO HIM IS LOST FOR ANY REASON. FUNDS FOR OFFICIAL TRAVEL PURPOSES ARE ADVANCED TO THE TRAVELER ONLY WHEN WARRANTED AND ARE TO BE HELD TO A MINIMUM. CUSTOMARILY, THE TRAVELER MUST REQUEST THE ADVANCE TO BE USED IN LIEU OF HIS OWN RESOURCES WHICH WOULD OTHERWISE BE REIMBURSED AT THE CONCLUSION OF THE TRAVEL. THUS, AN ADVANCE IS IN THE NATURE OF A LOAN FOR THE PERSONAL BENEFIT OF THE EMPLOYEE AND MUST BE CONSIDERED AS HIS PERSONAL FUNDS. SEE 54 COMP.GEN. 190 (1974). THERE IS NO BASIS TO VIEW SUCH FUNDS AS FUNDS OF THE UNITED STATES FOR WHICH THE EMPLOYEE MUST ACCOUNT BY SHOWING THAT THEY WERE USED FOR AUTHORIZED PURPOSES OR WERE LOST OR STOLEN THROUGH NO FAULT OF THE EMPLOYEE. MOREOVER, THE FACT THAT THE EMPLOYEE NEVER DEPARTED HIS OFFICIAL DUTY STATION TO PERFORM THE INTENDED TEMPORARY DUTY DOES NOT ALTER THAT CONCLUSION. SEE B-183489, JUNE 30, 1975, WHERE THEFT OF ADVANCE TRAVEL FUNDS OCCURRED AT THE EMPLOYEE'S HOME BEFORE HIS SCHEDULED DEPARTURE ON TEMPORARY DUTY.

WE NOTE THAT MR. POSNER MIGHT RECOVER FOR THE LOSS OF HIS TRAVEL ADVANCE UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED, 31 U.S.C. 240-243 (1976). THAT ACT AUTHORIZES THE HEAD OF THE AGENCY OR HIS DESIGNEE TO PRESCRIBE REGULATIONS UNDER WHICH CLAIMS FOR DAMAGE TO OR LOSS OF PERSONAL PROPERTY INCIDENT TO THE CLAIMANT'S SERVICE WILL BE PAID. WHILE THE ACT'S PROVISIONS EXTEND GENERALLY TO CLAIMS FOR LOSS OF MONEY, HUD'S IMPLEMENTING REGULATIONS RESTRICT ALLOWANCE OF SUCH CLAIMS TO THOSE LOSSES WHICH OCCUR INCIDENT TO FIRE, FLOOD, HURRICANE, OR OTHER NATURAL DISASTERS, OR THEFT FROM ASSIGNED GOVERNMENT QUARTERS. SEE 24 C.F.R. 17.43, 17.44(A). ALTHOUGH ALLOWANCE OF CLAIMS UNDER THAT ACT IS A MATTER FOR CONSIDERATION OF THE SECRETARY, SINCE MR. POSNER'S TRAVEL ADVANCE WAS NOT STOLEN FROM ASSIGNED GOVERNMENT QUARTERS, ITS LOSS WOULD NOT APPEAR TO BE COMPENSABLE UNDER THE RULES PRESCRIBED BY HUD FOR PAYMENTS UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT.

ALTHOUGH THE LOSS OF ADVANCE TRAVEL FUNDS SUCH AS IN THIS CASE IS REGRETTED, WE FIND NO AUTHORITY TO RELIEVE THE EMPLOYEE FROM LIABILITY TO REPAY THOSE FUNDS TO THE UNITED STATES. ACCORDINGLY, THE ADVANCE TRAVEL FUNDS MUST BE RECOVERED FROM MR. POSNER AS PROVIDED IN FTR PARA. 1- 10.3C(3) AND GAO POLICY AND PROCEDURES MANUAL FOR GUIDANCE OF FEDERAL AGENCIES, TITLE 7, SECTION 25.6.