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[Request for Relief From Liability for Army Officer]

Number: B-221453

Date: 1986-06-18

B-221453, JUN 18, 1986, OFFICE OF GENERAL COUNSEL

DISBURSING OFFICERS - RELIEF - ERRONEOUS PAYMENTS - NOT RESULT OF BAD FAITH OR NEGLIGENCE DIGEST: A SUPERVISORY DISBURSING OFFICIAL IS RELIEVED FROM LIABILITY UNDER 31 U.S.C. SEC. 3527(C) FOR AN IMPROPER PAYMENT MADE BY A SUBORDINATE. THE IMPROPER PAYMENT OCCURRED WHEN THE SUBORDINATE PAID A VOUCHER WHICH SHOWED X'S IN THE AMOUNT DUE COLUMN TO INDICATE THAT THE VOUCHER WAS NOT FOR PAYMENT. THE SUPERVISORY DISBURSING OFFICIAL IS RELIEVED BECAUSE HE MAINTAINED AND ENFORCED ADEQUATE PROCEDURES AND CONTROLS OVER FUNDS. ALTHOUGH THE LOSS WAS NOT TURNED OVER TO THE AGENCY'S COLLECTION ACTIVITY WITHIN THE 3 MONTHS REQUIRED IN ORDER TO GRANT RELIEF, RELIEF IS GRANTED BECAUSE THE LOSS OCCURRED BEFORE THE 3-MONTH REQUIREMENT WAS IN EFFECT.

MR. CLYDE E. JEFFCOAT:

ACTING ASSISTANT COMPTROLLER FOR FINANCE AND ACCOUNTING

DEPARTMENT OF THE ARMY

U.S. ARMY FINANCE AND ACCOUNTING CENTER

INDIANAPOLIS, INDIANA 46249

THIS REPLIES TO YOUR DECEMBER 12, 1985, REQUEST THAT WE GRANT RELIEF UNDER 31 U.S.C. SEC. 3527(C) TO LIEUTENANT COLONEL (LTC) N. E. M. HOLDER, FINANCE AND ACCOUNTING OFFICER, U.S. ARMY INFANTRY CENTER, FORT BENNING, GEORGIA, FOR AN IMPROPER PAYMENT OF $1,029.02. WE GRANT RELIEF TO LTC HOLDER BECAUSE HE MAINTAINED AND ENFORCED ADEQUATE PROCEDURES AND CONTROLS TO AVOID ERRORS IN MAKING CASH PAYMENTS.

THE IMPROPER PAYMENT OCCURRED ON JUNE 13, 1985, WHEN MS. MARION C. HUDGINS, A CASHIER IN THE FINANCE AND ACCOUNTING OFFICE THAT LTC HOLDER SUPERVISES, WAS PRESENTED WITH A SEPARATION VOUCHER FOR PRIVATE (PVT) TIMOTHY R. DYER. THE VOUCHER SHOWED THAT THE TOTAL ENTITLEMENTS DUE PVT DYER UPON HIS SEPARATION WERE OFFSET BY AMOUNTS OWED BY HIM. THE VOUCHER SHOWED "X"'S IN THE AMOUNT DUE COLUMN TO INDICATE THAT NO PAYMENT WAS DUE TO PVT DYER. MS. HUDGINS MISREAD THIS VOUCHER AND PAID PVT DYER $1,092.02, THE AMOUNT OF HIS TOTAL ENTITLEMENTS WITHOUT TAKING INTO ACCOUNT THE OFFSET. THE LOSS OF FUNDS WAS REFLECTED ON THE STATEMENT OF ACCOUNTABILITY SUBMITTED BY LTC HOLDER FOR JUNE 1985.

IMMEDIATELY AFTER DISCOVERING THE LOSS LTC HOLDER BEGAN COLLECTION EFFORTS. BY JUNE 26, 1985, LTC HOLDER HAD SENT TWO CERTIFIED LETTERS TO MR. DYER REQUESTING THAT THE IMPROPER PAYMENT BE REFUNDED. THE MATTER WAS FORWARDED TO THE U.S. ARMY

FINANCE AND ACCOUNTING CENTER CLAIMS COLLECTION DIVISION ON DECEMBER 3, 1985.

GENERALLY A DISBURSING OFFICIAL WHO IS RESPONSIBLE FOR AN ACCOUNT IS LIABLE FOR HIS SUBORDINATE'S IMPROPER PAYMENTS OUT OF THAT ACCOUNT. COMP.GEN. 476, 480 (1983). UNDER 31 U.S.C. SEC. 3127(C) (1982) THIS OFFICE HAS THE AUTHORITY TO RELIEVE DISBURSING OFFICIAL FROM LIABILITY FOR AN IMPROPER PAYMENT WHEN THE PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE BY THE OFFICIAL. HOWEVER, WE MAY DENY RELIEF IF THE AGENCY HAS NOT CARRIED OUT DILIGENT COLLECTION ACTION. THE GOOD FAITH AND REASONABLE CARE OF A SUPERVISORY DISBURSING OFFICIAL IS SHOWN BY EVIDENCE THAT THE SUPERVISOR MAINTAINED ADEQUATE PROCEDURES AND CONTROLS TO AVOID ERRORS AND TOOK STEPS TO ENSURE IMPLEMENTATION OF THOSE CONTROLS. 62 COMP.GEN. 476, 480 (1983).

YOUR SUBMISSION SHOWS THAT LTC HOLDER ESTABLISHED AND MAINTAINED ADEQUATE PROCEDURES AND CONTROLS OVER THE FUNDS HE WAS ACCOUNTABLE FOR AND THAT HE ENFORCED THESE PROCEDURES. LTC HOLDER ALSO TOOK ADDITIONAL PRECAUTIONS IMMEDIATELY FOLLOWING THIS LOSS TO PREVENT ANY SIMILAR IMPROPER PAYMENTS.

WE NOTE THAT ALTHOUGH LTC HOLDER PROMPTLY BEGAN COLLECTION ACTIONS AGAINST MR. DYER, THE MATTER WAS NOT TURNED OVER TO YOUR COLLECTION DIVISION UNTIL 6 MONTHS AFTER THE LOSS OCCURRED. WE STATED IN B-220836, NOV. 29, 1985, THAT WE WILL NO LONGER GRANT RELIEF IN CASES WHERE THE COLLECTION DIVISION IS NOT NOTIFIED OF A LOSS WITHIN 3 MONTHS OF ITS DISCOVERY. WE HAVE HELD THAT THIS STANDARD WILL APPLY TO LOSSES SIMILAR TO THE LOSS IN THIS CASE. B-221471, JAN. 7, 1986. HOWEVER, SINCE THIS LOSS OCCURRED PRIOR TO JUNE 1, 1986, WHEN WE CONSIDER THE 3 MONTH REQUIREMENT TO HAVE BEGUN, WE GRANT THE REQUESTED RELIEF TO LTC HOLDER.

YOUR SUBMISSION ALSO SHOWS THAT MS. HUDGINS, THE CASHIER WHO MADE THE IMPROPER PAYMENT, IS LIABLE FOR THE IMPROPER PAYMENT. SEE B-212293, NOV. 21, 1983. IF FURTHER COLLECTION ACTION AGAINST MR. DYER DOES NOT RESULT IN FULL PAYMENT OF THE $1,029.02, ANY OUTSTANDING AMOUNT SHOULD BE COLLECTED FROM MS. HUDGINS.