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B-235180 May 11, 1989

Number: B-235180

Date: 1989-05-11

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Fish and Wildlife Service office was burglarized and entire safe containing impress funds was stolen. Police investigation produced no evidence implicating the imprest fund cashier (accountable officer). Relief is granted to cashier under 31 U.S.C. Sec. 3527 because GAO agrees with administrative determination that loss occurred without fault or negligence on cashier's part.

Mr. William L. Kendig Director of Financial Management U.S. Department of the Interior Office of the Secretary Washington, D.C. 20240

Dear Mr. Rendig:

This is in response to your letter of April 10, 1989, requesting that Cheryl Harris, impress fund cashier for the United States Fish and Wildlife Service in Grand Junction, Colorado, be relieved of liability for a loss by theft of $2,159.85 in impress funds for which she was accountable. For the following reasons, we grant relief.

The record reflects that during the night of December 22-23, 1988, the Colorado Fishing unit, where Ms. Harris is employed, was burglarized. The local police department, the Fish and Wildlife Service's Finance Center and the Federal Bureau of Investigation were notified of the burglary. The police report indicates that unknown person(s) forced open the front door of the Fishing unit's office with a pry type tool. Among the items stolen from the office was the entire safe, which contained the $2,159.85 in imprest funds.

Under 31. U.S.C. Sec. 3527, our Office is authorized to relieve accountable officers of responsibility for a physical loss of government funds if we concur in the determination by the head of an agency that: (a) the loss occurred while the officer or agent was acting in the discharge of his or her official duties and (b) that there was no fault or negligence on the part of the cashier which contributed to the loss. B-230796, April 8, 1988. Anytime a physical loss of funds occurs there arises a rebuttable presumption of negligence on the part of an accountable officer. 54 Comp.Gen. 112, 115 (1974). However, when the evidence shows that a theft took place and an investigation reveals no connection between the accountable officer and the theft, the presumption of negligence is rebutted and we have granted relief to the accountable officer. See, e.g. B-209514, June 2, 1983 (theft of entire safe from Forest Service Office); B-200715, January 22, 1981 (unknown persons forced entry into refuge manager's office and stole safe containing impress funds); B-182590, February 3, 1975 (burglars broke into Bureau of Indian Affairs Office in Alaska and removed safe on sled).

You have administratively determined that the cashier was without fault in the loss. Although you have not formally made the requisite determination that the cashier, Ms. Harris, was acting in the discharge of her official duties, recital of the facts makes it clear this was your conclusion. See, e.g., B-232252, January 5, 1989. Since there is evidence of forcible entry into the office and removal of the entire safe and there is no evidence in the record to implicate Ms. Harris, we agree with the administrative finding that the loss was not a result of fault or negligence on the part of Ms. Harris.

We therefore grant relief to the above-mentioned cashier. The loss may be charged to the appropriation currently available for the expenses of the disbursing function.

Sincerely,

Gary y. Keppliger Associate General Counsel