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B-242773, Feb 20, 1991, Office of General Counsel

Number: B-242773

Date: 1991-02-20

B-242773, Feb 20, 1991, Office of General Counsel

DIGEST: We relieve cashier of liability for loss resulting from burglary where sheriff's investigation did not implicate the cashier in the burglary.

Mr. J.L. Wilson

Director, Financial Management Division:

This is in response to your letter of January 23, 1991, requesting that Evelyn K. Brown, Principal Cashier for the Agricultural Research Service's Knipling-Bushland U.S. Livestock Insects Research Laboratory (Laboratory), be relieved of liability for the loss by theft of $8,898.13 in imprest funds for which she was accountable. For the following reasons, we grant relief.

The record reflects that during the night of October 28-29, 1990, the Laboratory, where Ms. Brown is employed, was burglarized by unknown persons. The burglars had broken into a welding shop located at the Laboratory, and moved a blowtorch and acetylene tanks from the shop to the administrative office. They entered the administrative office by force, and using the torch, cut open the safe holding the imprest funds. A total of $876.37 in cash plus $8,021.76 in U.S. Treasury checks were removed from the safe. The County Sheriff's Department was promptly notified of the burglary and theft on the morning of October 29, 1990; however, the culprits has not been apprehended to date. The County Sheriff's investigation did not implicate the cashier.

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, Apr. 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-235180, May 11, 1989 (entire safe removed from U.S. Fish and Wildlife Service Office); B-209514, June 2, 1983 (theft of entire safe from Forest Service Office); B-200715, Jan. 22, 1981 (unknown persons forced entry into refuge manager's office and stole safe containing imprest funds).

You have made the requisite administrative determination that the loss of the imprest funds occurred through no fault or negligence on the part of Ms. Brown. Under the facts and circumstances of this request, it is clear from the record that Ms. Brown was acting in the discharge of her official duties at the time of the loss. Since there is evidence of forcible entry into the office where the safe was located and opening the safe with the blowtorch taken from the welding shop, and there is no evidence in the record to implicate Ms. Brown, we agree with your administrative finding that the loss was not a result of fault or negligence on the part of Ms. Brown.

We therefore grant relief to the above-mentioned cashier. The Service may charge the stolen funds to the current appropriation in accordance with 31 U.S.C. Sec. 3527(d)(1)(B).