Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Improper Travel Advance Paid by Equal Employment Opportunity Commission Imprest Fund Cashier

File: B-271021

Date: September 18, 1996

DIGEST

An imprest fund cashier at the Equal Employment Opportunity Commission (EEOC) may not be reimbursed for a travel advance paid from his imprest fund to a witness traveling on government business, because the travel advance was made contrary to EEOC procedures governing payment of travel expenses. The fact that the cashier received instructions from superiors to make the improper payment does not relieve him of responsibility for the resulting deficiency in his account. Statement of a superior that he would "assume liability for repayment of the funds" is personal to the cashier and does not affect the cashier's liability for the improper payment.

DECISION

This is in response to a request from Mrs. Willie King, Director, Financial Management Division, Equal Employment Opportunity Commission (EEOC), for a decision as to whether an imprest fund cashier at the EEOC may be reimbursed for a travel advance paid from his imprest fund to an EEOC witness traveling on government business. As set forth below, we conclude that the voucher submitted by the imprest fund cashier for reimbursement may not be paid, because the travel advance was made contrary to EEOC procedures governing payment of travel expenses of witnesses.

Background

This case involves a travel advance paid to a witness for the EEOC who was not a government employee. The EEOC requested that Ms. Karen Rudolph appear as a witness in a pending matter in Cheyenne, Wyoming. Ms. Rudolph was to travel from Gillette, Wyoming to Cheyenne on June 8, 1994.

On June 8, 1994, Mr. Michael Fetzer, Supervisory Program Analyst, EEOC Field Management Programs—West, sent a memorandum to Carlos Villescas, Acting Director of the Denver District, EEOC, requesting that Mr. Villescas "immediately make available from [the] District's imprest fund an amount not to exceed $150.00,

and wire it to Ms. Karen Rudolph at Gillette, Wyoming, for her use in conjunction with her 6/8/94 travel from Gillette to Cheyenne Wyoming" in connection with a pending EEOC matter. Mr. Fetzer told Mr. Villescas that "in the circumstances and time frame presented, . . . I see no other option which serves the agency's interests." Mr. Fetzer concluded the memorandum with the following statement: "If there is a subsequent determination that the funds should not have been disbursed for the aforementioned purpose, I will assume liability for repayment of the funds."

Mr. Villescas in turn sent a memorandum to Mr. Jerry Mabry, Administrative Officer at the EEOC Denver District Office, informing Mr. Mabry that he was "directed to take $130 from the imprest fund in order to purchase a money order in Ms. Rudolph's name and forward this money in her name via Western Union to Gillette, Wyoming . . . ." At the bottom of Mr. Villescas' June 8 memorandum to Mr. Mabry is the following handwritten notation: "To: Dave Guthrie. Per the above directive, please purchase money order as directed. J. Mabry 6/8/94."

On June 8, Mr. David Guthrie, Imprest Fund Cashier for the EEOC Denver District Office, prepared a Standard Form 1165, "Receipt for Cash—Subvoucher," in the amount of $160.00. The stated purpose on the Form 1165 was: "Purchase and send Western Union Money Order to Karen Rudolph." Mr. Guthrie was designated on the form as both the cashier and the recipient of the funds. Also on that day, a Standard Form 1038, "Advance of Funds Application and Account," was prepared on behalf of Ms. Rudolph, and approved in the amount of $130.00. The SF 1038 was signed by Mr. Mabry as "Authorizing Official" and by Mr. Villescas as "Approving Official." Thereupon, Mr. Guthrie used the $160.00 he had received from his imprest fund to purchase a $130.00 "money transfer" from Western Union, payable to Ms. Rudolph. The charge for the transfer was $22.00, resulting in a total expenditure by Mr. Guthrie of $152.00.[1]

Later that same day, Mr. Guthrie submitted a Standard Form 1164, "Claim for Reimbursement for Expenditures on Official Business," totalling $152.00. The explanation listed on the Form 1164 was as follows: "Purchase of Western Union Money Transfer for Karen Rudolph to travel from Gillette, Wy. to Cheyenne, Wy, to obtain a hotel room, and to return to Gillette, Wy. EEOC vs Laramie County Sheriff's Office (systemic case)." This form was signed by Mr. Villescas as "Approving Official" on June 9 and by Mr. Mabry as "Authorized Certifying Officer" on June 10.

In late June 1994, Ms. Rudolph submitted to the EEOC Denver Regional Office a completed travel voucher in the amount of $206.76, representing total expenses she

---

[1]Although the record is unclear, the remaining balance ($8.00) of the $160.00 that Mr. Guthrie received from his imprest fund apparently was returned to that fund.

incurred in attending the EEOC function on June 8-9, 1994. This voucher was forwarded to EEOC's Washington office, which was unaware that Ms. Rudolph had received a travel advance from Mr. Guthrie. Thus, the amount of the travel advance was not deducted from her total expenses and the EEOC Washington office sent a check for $206.76 to Ms. Rudolph, which she apparently negotiated.

Ms. Rudolph again traveled on behalf of the government on July 6-8, 1994, in connection with the same case. In this instance, however, she did not receive a travel advance. A travel voucher was sent to her for signature, but was never returned to EEOC. EEOC subsequently has been unable to contact Ms. Rudolph.

The EEOC Financial Management Division disallowed Mr. Guthrie's claim for reimbursement of $152.00 on the ground that there was a "lack of statutory payment authority for reimbursement of an advance paid with Imprest Funds." EEOC essentially asks whether this disallowance was proper and whether Mr. Guthrie is liable for the travel advance paid to Ms. Rudolph.

Travel Advance and Imprest Fund Procedures

Department of the Treasury regulations regarding imprest funds require that each agency issue regulations governing payments from imprest funds and that cashiers follow those regulations. Treasury Financial Manual, Part 4, Chapter 3000. See also Federal Acquisition Regulation § 13.404(c). The EEOC has established such regulations in EEOC Order 470.001, December 3, 1991, "Imprest Fund Management." Those regulations provide: "Cashiers are personally responsible for the legality and propriety of cash payments made from their Imprest Fund . . . . They must first insure that all disbursements are supported by sufficient documentation and authorization." (EEOC Order 470.001, § 6.a.(1)).

The EEOC also has regulations governing the payment of travel expenses. The EEOC Travel Handbook, EEOC Order 335, Appendix A, specifically provides that "travel advances may not be made for private parties." According to the submission, EEOC has adopted this policy "because there is a risk of not being able to recover the money if the actual travel does not take place." Normally in circumstances such as the instant case, when a private party is traveling on government business, documents are prepared justifying the proposed payment, and a Treasury check is issued to the imprest fund cashier. The imprest fund cashier then makes payments to the witness upon receipt of appropriate documentation. See EEOC Memorandum dated April 19, 1985, "Procedures to Pay Witness Travel Costs Other than by Reimbursement Check."

The EEOC regulations are clear that private parties may not be paid travel advances and that cashiers are responsible for insuring that payments are proper.

We do not have a request to relieve Mr. Guthrie from indebtedness for this loss. However, we have held that where an accountable officer fails to follow regulations and a loss of funds or an improper payment is caused, such failure to follow the regulations must be considered negligence and relief from liability is denied. See 54 Comp. Gen. 112 (1974). Accordingly, the EEOC was correct to disallow Mr. Guthrie's reimbursement for expenses incurred in providing the travel advance to Ms. Rudolph. The fact that Mr. Guthrie may have received instructions from superiors to make the improper payment does not relieve him of responsibility for the deficiency in his account resulting from the improper payment. See 55 Comp. Gen. 297 (1975); 49 Comp. Gen. 38 (1969). The improper payment made by Mr. Guthrie, accordingly, created a deficiency in his imprest fund account in the amount of $152.00, for which he is personally liable. See GAO, Policy and Procedures Manual for Guidance of Federal Agencies, title 7, § 6.8; Treasury Financial Manual, Part 4, Chapter 3000.

Accounting Adjustment

In the instant case, had no actual loss to the Government occurred, a possible remedy for the deficiency in Mr. Guthrie's account would be to charge the travel advance to the proper account and credit Mr. Guthrie's account, thereby eliminating the deficiency. See 63 Comp. Gen. 422, 434 (1984). We have permitted such "accounting adjustments" in appropriate cases when a particular payment that was found to be improper would have been proper had it been made following proper procedures and from the proper account. See, e.g., B-223113, Dec. 9, 1986.

Here, however, no such accounting adjustment is possible. Because EEOC subsequently reimbursed Ms. Rudolph by check for the full amount of her expenses, without deducting the travel advance she received from Mr. Guthrie, there is now no account to which the advance paid to Ms. Rudolph properly may be charged. Any "account adjustment," accordingly, would simply move the deficiency resulting from Mr. Guthrie's improper payment from his own account to another account.

One remedy that may be available in this case is the recovery from Ms. Rudolph of amounts erroneously paid or due her. The record is unclear as to what efforts EEOC has made to collect amounts erroneously paid Ms. Rudolph. See generally Federal Claims Collection Standards, 4 C.F.R. Chapter 2, § 102.1(a) (1996). Also, as a consequence of her travel on behalf of the government on July 6-8, 1994, Ms. Rudolph may be due reimbursement of travel expenses upon submission of a claim. To the extent EEOC can ascertain the amount due Ms. Rudolph for this travel, EEOC should consider the recovery of all or part of the amount erroneously paid Ms. Rudolph by administrative offset against this latter amount. See 31 U.S.C. § 3716(a); 4 C.F.R. § 102.3 (1996); 16 Comp. Gen. 964 (1937).

Assumption of Liability by Mr. Fetzer

Finally, we note that Mr. Fetzer, in his June 8 memorandum, purported to "assume liability for repayment of the funds" in the event of a "subsequent determination that the funds should not have been disbursed." This statement by Mr. Fetzer, however, has no effect on the liability of Mr. Guthrie for the deficiency in his account, which is fixed by statute and regulation. The government, accordingly, need look no further than Mr. Guthrie for restitution of the deficiency. Any remedies that Mr. Guthrie may have regarding representations made by Mr. Fetzer are personal to him.

/s/Robert Murphy
for Comptroller General
of the United States