

DECISION



21669 Botaford
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

118248

FILE: B-204324

DATE: April 27, 1982

MATTER OF: Ronnie Davis

- DIGEST:**
1. Employee's claim for reimbursement of expenses incurred incident to accident which occurred while employee was driving to temporary duty site in privately owned vehicle was denied by his agency under Military Personnel and Employee Claims Act of 1964. Provisions of that Act are exclusive remedy for personal property damage claims and settlement thereunder is final and conclusive.
 2. Employee's claims for car rental fee and medical expenses incurred subsequent to accident which occurred while he was driving to a temporary duty site in his privately owned vehicle are denied. The rental of the automobile was never specifically authorized as is required by Federal Travel Regulations and this Office has no jurisdiction to settle medical expense claims.

This is in response to a request from May V. Smith, an authorized certifying officer at the San Francisco Regional Office of the Department of Housing and Urban Development (HUD). Ms. Smith has requested our opinion concerning the claim of Ronnie Davis for reimbursement of expenses he incurred as the result of an accident which occurred when he was driving to a temporary duty site in his own automobile.

Although Mr. Davis is presently stationed in San Francisco, the accident took place on February 12, 1979, while he was stationed in Chicago. Mr. Davis had been detailed to the Milwaukee Area Office of HUD and was apparently receiving per diem and travel expenses (mileage) incident to this temporary duty. On his way to Milwaukee after returning to Chicago for the weekend, he skidded on a snow-covered road, and his car turned over twice. As a result of this accident Mr. Davis claimed reimbursement for a total of \$937.36 - \$356.85 for repair of his automobile, \$515.51 for car rental fees, and \$65 for medical expenses.

Mr. Davis' claim was denied by Richard J. Flando, Regional Counsel at the HUD Chicago Office, on the basis that it was not compensable under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. §§ 240 - 243. Mr. Flando based his determination on his findings that Mr. Davis failed to establish that the accident occurred during authorized use of his privately owned vehicle and that the accident resulted from Mr. Davis' own negligent operation of the vehicle. Mr. Flando also denied Mr. Davis' claim for the cost of renting a replacement vehicle and the expenses of his medical treatment, stating that the Claims Act applies only to the loss of property and does not permit reimbursement for incidental losses.

This denial was affirmed by Burton Bloomberg, Associate General Counsel for Regulations and Administrative Law, in a memo dated May 11, 1981, in which he states in part:

"The accident does appear to be attributable, in whole or in part, to Mr. Davis' own negligence in traveling too fast for road conditions. This factor is cited in the Wisconsin State Patrol Officer's report. Further, regardless of whether Mr. Davis was in travel status at the time of the accident, we find no specific authorization for use of his private vehicle by his supervisor, as is required by 24 C.F.R. 17.44(d)(1). Either of these factors preclude recovery. (See 24 C.F.R. 17.43(a)(1) and 24 C.F.R. 17.44).

"Finally, we agree that Mr. Davis' claim for reimbursement for the cost of a rental car is not covered under our regulations, since claims are specifically limited to '.... loss of or damage to personal property....' 24 C.F.R. 17.40(a). Accordingly, Mr. Davis' claim was properly denied."

Ms. Smith, the certifying officer at the San Francisco Office, states that she understands that the Comptroller General has no jurisdiction to consider the claims of employees of other agencies for loss or damage to personal

property under the Military Personnel and Civilian Employees Claims Act. She asks, however, whether Mr. Davis' claim may yet be allowed under other authority in the law, and in this regard she refers to HUD's salaries and expenses appropriation.


Ms. Smith is correct that the Comptroller General has no jurisdiction to settle claims under the Act nor may he question an agency's settlement so long as it was made in accordance with the statutory criteria and applicable regulations. 47 Comp. Gen. 316 (1967). We know, however, of no other authority by which Mr. Davis' claim may be allowed here. See Laura A. Johnston, B-185513, March 24, 1976.

The portion of Mr. Davis' claim which HUD found not to be within the scope of the Claims Act, i.e., the cost of renting a replacement vehicle and his medical expenses, must also be denied. The rental of an automobile is permitted only if the automobile is to be used on official business and then only if such rental is specifically authorized. See Federal Travel Regulations (FPMR 101-7) para. 1-3.2a (May 1973). The record does not show that Mr. Davis was authorized the use of a rental car after his accident.

The authority for payment of medical expenses of an employee injured while in the performance of duty is found at 5 U.S.C. § 3103 (1976). The Secretary of Labor under the provisions of 5 U.S.C. § 8149 (1976), is authorized to prescribe the rules and regulations for the administration and enforcement of Subchapter I of Chapter 81, concerning compensation for work injuries. Such rules and regulations provide for an Employees' Compensation Appeals Board of three individuals designated or appointed by the Secretary. The Board has authority to hear and, subject to applicable law and the rules and regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees. Thus, by law there is no basis under which the General Accounting Office would have jurisdiction over Mr. Davis' medical expense claim.

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For the above reasons, therefore, Mr. Davis' claim for damages to his automobile, rental of another vehicle and medical expenses, must be denied.

for 
Comptroller General
of the United States