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Johnnie Lupton
Civ. Pers.

DECISION



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

FILE: B-180010.02

DATE: March 22, 1977

MATTER OF: Des Moines Flight Service Station, FAA -
Arbitration Award of Parking Accommodations

DIGEST: Department of Transportation questions whether it may legally implement an arbitration award in favor of National Association of Air Traffic Specialists, Des Moines, Iowa, Flight Service Station, requiring Federal Aviation Administration to provide parking for employees at Des Moines airport. Because the factual situation and legal issues in this case are similar to those in 55 Comp. Gen. 1197, that case is controlling. Hence there is no legal impediment to expenditure of funds to implement this award.

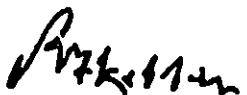
This action involves a May 3, 1976, letter request for an advance decision from Mr. William S. Heffelfinger, Assistant Secretary for Administration, Department of Transportation, as to the legality of implementing an arbitration award that requires the Federal Aviation Administration (FAA) to expend appropriated funds for employee parking. Initially, the Department noted an exception to the award and, under the provisions of section 13(b) of Executive Order No. 11491, as amended, petitioned the Federal Labor Relations Council for review on the basis that the arbitrator had exceeded his authority and fashioned a remedy that would require the improper expenditure of appropriated funds. In support of the petition, the Department alleged that the award did not meet the criteria set forth in two Comptroller General decisions (43 Comp. Gen. 131 and 49 *id.* 476) and in General Services Administration (GSA) Order 7030.2C. The Council on March 29, 1974, declined to accept the petitions for review on the ground that the applicability of the GSA order and the two Comptroller General decisions had not been demonstrated in the petition. The Department failed to implement the award because the parking provision had been dropped from the agreement on renegotiation.

On September 30, 1974, the National Association of Air Traffic Specialists, Des Moines, Iowa, Flight Service Station, filed an unfair labor practice complaint against the agency based on its failure to implement the award. The Assistant Secretary of Labor for Labor Management Relations ruled on May 30, 1975, that the

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FAA had violated section 19(a)(1) and (6) of Executive Order No. 11491, as amended, and ordered that agency to comply with the award. The Department appealed the Assistant Secretary's decision to the Council on June 20, 1975, and on September 23, 1975, the Council declined to review the decision. Inasmuch as the legality of expending appropriated funds in implementing the award had never been considered or decided, the Department requested a ruling from this Office on the matter.

Subsequent to receiving this request for a decision, we had occasion to consider three similar arbitration awards in our decision of June 25, 1976, entitled Matter of Federal Aviation Administration and Professional Air Traffic Controllers Organization, 55 Comp. Gen. 1197 (1976). Because that case involved the identical issue as presented here, the rationale and holding of that decision are controlling. Accordingly, we see no legal impediment to the expenditure of appropriated funds to implement the award here in question.


Deputy Comptroller General
of the United States