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Office of the General Counsel

B-253559

November 4, 1993

Dear Mr. :

This responds to your May 5, 1993, request for reconsideration of our Claims Group letter Z-2793472, October 20, 1992, advising you that our Office does not have jurisdiction to consider your claim for additional compensation for your household goods that were lost or damaged during shipment incident to your transfer from Huntsville, Alabama, to Fort Huachuca, Arizona.

We have reviewed your request and supporting documents and find no error of law or fact in the Claims Group's determination, which is therefore affirmed. We are providing the following information, however, in the hope that it will clarify the matter for you.

The record shows that you claimed \$13,414.12 for lost and damaged household goods incident to your transfer. The carrier responsible for your shipment, Senate Forwarding, Inc., initially offered a settlement of \$4,707.65, which you did not accept. You then pursued your claim through the Army. The Army adjudicated and paid your claim under its regulations issued pursuant to the Military Personnel and Civilian Employees' Claims Act. Under those provisions, you were paid \$5,805, the depreciated value of your property as determined by the Army. The Army then pursued collection from Senate of full replacement value of your property with the understanding that you would receive the amount collected in excess of \$5,805. Subsequently, the Army collected by setoff \$11,095 from Senate, but later reduced Senate's liability to \$8,302.80. Senate appealed to our Claims Group which conducted an item-by-item review, disallowing some items and sending the claim back to the Army for further action on others. Z-2793472-53, Nov. 24, 1992, copy enclosed. The Army noted that the settlement failed to account for the full replacement cost option you had chosen, and after further consideration, the Claims Group amended its settlement to allow for the full replacement cost of certain items. Z-2793472-53, Jan. 21, 1993, copy enclosed.

Based on the Claims Group's settlements, the Chief, U.S. Army Personnel Claims and Recovery Division advised you in a February 25, 1993, letter that the Army had received a final settlement from Senate of \$8,243, and that he had determined that amount to be the final value of your claim. He further advised you that a check for \$2,438 was being mailed to you, which together with the \$5,805 previously paid you totals the full \$8,243 due you. The letter explained that you were awarded less than the amount you claimed because of a lack of evidence to substantiate your claims for suits and china, and it stated that this determination was final under the provisions of 31 U.S.C. § 3721(k).

When you requested that our Claims Group review your claim, they advised you that the General Accounting Office has no authority to settle employee claims under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. § 3721 (1988). That is correct. Under that statute, an agency's decision on an employee's claim is "final and conclusive", and we have no jurisdiction to review it. 31 U.S.C. § 3721(k).  
B-219094, Dec. 5, 1985; U.S. Forest Service, 64 Comp. Gen. 93 (1984), copies enclosed.

The Claims Act of 1964, however, did not apply to Senate's claim against the Army because by its terms that Act applies only to claims against the government by members of the uniformed services and civilian employees for loss or damage to personal property incident to their service. Our Claims Group did have jurisdiction under 31 U.S.C. § 3702 to review Senate's claim for the amount set off against it by the Army. Upon our Claims Group's settlement of Senate's claim, the Army was then able to reimburse you the amount received above what had been allowed you under the Claims Act of 1964. It was our settlement of Senate's claim to which [redacted] was referring in his June 26, 1992, letter which apparently caused you some confusion.

We trust this clarifies for you why, as the Claims Group advised you, we have no authority to further review the Army's settlement of your claim, which is final and conclusive.

Sincerely yours,



James F. Hinchman  
General Counsel

Enclosures