



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Agnes T. Crouch - Reclassification - Claim
for Backpay

File: B-217885

Date: September 25, 1987

DIGEST

A former employee of the Department of the Army is not entitled to backpay on the basis that she held a position that was reclassified from grade GS-12 to grade GS-13. The evidence furnished by the Army indicates that the position was in fact occupied by another employee. The burden of proof is upon the employee to establish the liability of the government and her right to payment, and she has not met that burden.

DECISION

Ms. Agnes T. Crouch, a former employee of the Department of the Army, has appealed the determination by our Claims Group in its settlement Z-2863016, December 4, 1986, which denied her claim for backpay. For the reasons that follow, we uphold our Claims Group's determination.

BACKGROUND

Ms. Crouch was employed as a Personnel Staffing Specialist, GS-212-12, from November 1974 to November 1978, by the Department of the Army, Civilian Career Management Field Agency. Ms. Crouch alleges that from May 1976 to July 1978 she occupied a position classified as a GS-201-13, Automatic Data Processing (ADP) Career Program Administrator. Thus, she claims she is entitled to backpay on the basis of our decision in 53 Comp. Gen. 216 (1973). We held in that decision that when an agency reclassifies a position to a higher grade, it must within a reasonable time after the date of the final position classification either promote the incumbent, if he or she is otherwise qualified, or else remove him or her. See also 5 C.F.R. § 511.701(b) (1986).

Ms. Crouch has furnished as evidence of her claim a Group Action Request List prepared by the Army which indicates that she is the proposed incumbent of a grade GS-13 Personnel Management Specialist position. The Request List is signed by an approving official with an effective date of May 19, 1976. In addition, Ms. Crouch has furnished numerous documents which she signed utilizing the title of ADP Career Program Administrator and which she states indicates that she held this grade GS-13 position.

The Army has refuted Ms. Crouch's claim by presenting evidence that another employee, not Ms. Crouch, occupied the position in question during the period of her claim. In view of the conflicting evidence, our Claims Group denied Ms. Crouch's claim since it is our practice to accept the agency's statement of the facts where the written record before us presents an irreconcilable dispute of fact between an agency and an individual claimant.

OPINION

This Office settles claims on the basis of the written record, and the burden of proof is on the claimant to establish the liability of the United States and his or her right to payment. Jones and Short et al., B-205282, June 15, 1982; 4 C.F.R. § 31.7 (1986). We have also held that where there is a dispute between an employee and the agency and where the employee's evidence is of insufficient probative value to permit payment, we must deny the claim and leave the claimant to his or her remedy in the courts. Jimmie D. Brewer, B-205452, March 15, 1982, affirmed on reconsideration, June 14, 1982.

We do not believe that Ms. Crouch has established the liability of the United States and her right to payment on the basis of the evidence she has furnished. The Army points out that there was indeed a reclassification of the position held by Ms. Crouch based on a Request List dated May 19, 1976, and approved by Mr. John Polaschik, Chief of the Civilian Career Management Field Agency. However, the Request List contains the notation "MPR Change Only," which stands for "Master Position Record" and denotes only an intent to make an organizational record change. The Army states that it never intended to promote Ms. Crouch to this position, and that another employee, Ms. Logene H. Soucy (Boardman), was appointed to this position of Personnel Management Specialist, GS-201-13, on June 27, 1976.

The Army has furnished numerous documents in support of its contention that Ms. Soucy held the position, including a letter from Mr. Polaschik which clearly states that

Ms. Soucy was assigned as the ADP Career Program Administrator in June 1976. Mr. Polaschik further states that Ms. Crouch may have signed routine documents such as she has submitted to our Office as evidence but that Ms. Soucy assumed full responsibility for the ADP program. This is corroborated by Mr. A. L. Papenfus, who was the Deputy Chief of the Civilian Career Management Field Agency at that time, and by Ms. JoAnna M. Bryan, a Civilian Personnel Administrator who was in the same unit (Team III) as Ms. Crouch. Ms. Bryan states that:

"Ms. Crouch was assigned as a GS-212-12 and assisted Jean Souci Boardman in administration of the ADP Career Program from 27 June 1976 until Ms. Boardman accepted another assignment. Prior to June 1976, the administrator duties were performed by the team leader or one of the GS-13s. Ms. Boardman was replaced by Ms. Betty Cimino as the Career Program Administrator for the ADP program."

It is also important to point out here that Ms. Crouch's performance ratings for January and November 1977 are part of the record, and both indicate that her position was that of Personnel Staffing Specialist GS-212-12. The ratings were signed by Mr. Polaschik and Mr. Papenfus as reviewing officials. Thus, these two supervisors were obviously aware of Ms. Crouch's duties.

The record also contains a Standard Form 50 with an effective date of June 27, 1976, reassigning Ms. Soucy to the GS-201-13 position at the same location code as the one shown on Ms. Crouch's Standard Form 50, effective November 17, 1974. The record does not contain any additional Form 50s for Ms. Crouch until 1978, at which time a new location code appears. There are also numerous other memorandums, letters of commendation, etc., during the same timeframe on behalf of Ms. Soucy which refer to Ms. Soucy as the ADP Career Program Administrator, Operations Branch Team III.

Based on the foregoing, we conclude that Ms. Crouch has not met her burden of proof and has not established her right to payment since the Army has produced substantial contrary evidence rebutting her contention. Accordingly, her claim for backpay is denied, and our Claims Group's settlement of December 4, 1986, is hereby sustained.

for Harry R. Van Cleave
Comptroller General
of the United States