

B-180778-O.M.

DIGEST - M-99M/A

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Director, Office of Administrative Planning and Services

General Counsel - Paul G. Dembling

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Personal Property Claim - Ralph C. Lange. B-180778-O.M.

Reference is made to a memorandum of February 27, 1974, from the Acting Chief, Accounting Operations Branch of your Office, referring the subject claim to our Office for review. It appears from the record that Mr. Lange, a GAO employee, upon being transferred to Frankfurt, Germany, in June 1966, placed one lot of his household goods in non-temporary storage pursuant to competent authorization. In June 1971, while still overseas, he placed a second lot of household goods in storage. When Mr. Lange returned to the United States, both lots were released from storage and delivered to him at his new residence in Springfield, Virginia. Several items were damaged or missing, apparently due in part to the move and in part to flooding of the warehouse during Hurricane Agnes in June 1972. Using the lower of the depreciated value of the property or the estimated cost of cleaning or repair, Mr. Lange estimated his total loss at \$3,043.32. He has been reimbursed \$1,514.40 by the carrier's insurer based on a 60¢ per pound limitation of liability, and has submitted the claim for the difference, \$1,528.92.

Under section 241(b)(1)(A) of the Military Personnel and Civilian Employees Claims Act of 1964, as amended, 31 U.S.C. 240-243, the head of an agency may, pursuant to regulation, settle and pay a claim against the United States for not more than \$6,500 by a civilian officer or employee for damage to or loss of personal property "incident to his service." Implementing regulations for GAO are contained in Comptroller General's Order (CGO) No. 1.39. In accordance with paragraph 3a of CGO 1.39, the Director, Office of Administrative Planning and Services has prepared instructions entitled "Guides and Tables for Computing Amounts Allowable to Eligible Claimants Under the Military Personnel and Civilian Employees Claims Act of 1964." Using the depreciation rates contained therein, OAPS personnel have recomputed the claim and recommend allowance in the amount of \$1,504.69. Also, in accordance with those instructions, since the amount involved is in excess of \$1,000, the claim was referred here for review before approval.

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While we have never defined the phrase "incident to his service" for purposes of 31 U.S.C. 241(b)(1)(A), we note that damage to goods in nontemporary storage under similar circumstances has been deemed incident to service by other agencies (B-163125, February 12, 1968; B-176639, September 5, 1972) and by military departments under a similar provision in 31 U.S.C. 241(a)(1) (B-174760, January 5, 1972; B-178243, May 1, 1973). Further, a review of the legislative history of the 1964 statute indicates that a broad application of section 241(b)(1)(A) was intended. See, e.g., S. Rept. No. 1423, 88th Cong., 2d Sess. (1964). It would thus appear that Mr. Lange's loss may properly be considered "incident to his service" for purposes of section 241(b)(1)(A). Cf. CGO 1.39, paragraph 8e. It further appears that the claim has been presented within the applicable two-year limitation (31 U.S.C. 241(c)(1); CGO 1.39, paragraph 7d) and there is no evidence that the loss or damage was caused wholly or partly by the negligent or wrongful act of the claimant, his agent or employee (31 U.S.C. 241(c)(3)).

In light of the foregoing, we are of the opinion that Mr. Lange's claim may properly be allowed in the amount of \$1,504.69. Subject claim file is returned herewith.

Attachments