



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** James W. Parker--Waiver Request

**File:** B-259696

**Date:** January 25, 1995

### DIGEST

A former Air Force member received a Selective Reenlistment Bonus (SRB), but was discharged before the end of his term of enlistment. The unearned portion of his SRB may not be considered for waiver under 10 U.S.C. § 2774 because the SRB payment was proper when made and does not constitute an erroneous payment.

### DECISION

This is in response to an appeal of the Claims Group's partial denial of the waiver request of Mr. James W. Parker, a former member of the United States Air Force. We affirm the Claims Group's settlement.

In March 1988, Mr. Parker reenlisted in the Air Force for a period of 6 years, thereby becoming entitled to a Selective Reenlistment Bonus (SRB) of \$13,557.59. He had received \$8,134.55 of that amount prior to his discharge in November 1989 for failure to meet Air Force Physical Readiness Standards. Because Mr. Parker was discharged more than 4 years before the end of his term of enlistment, the Air Force was required to recover \$4,349.72 of the bonus already paid to him, but the Air Force then reduced this amount to \$2,877.20 by applying a credit of \$1,472.52 for pay and allowances and accrued leave due Mr. Parker at his discharge. On November 15, 1989, the day before his discharge, Mr. Parker erroneously received a payment of \$663.74. Our Claims Group waived the government's claim for the \$663.74, but denied waiver for the balance of the SRB debt. Mr. Parker argues that the debt should be waived because the Air Force broke its contract with him by assigning him to a job other than the one for which he reenlisted. As a result he contends that he was paid the SRB erroneously.

Under 10 U.S.C. § 2774, the Comptroller General may waive a claim of the United States only if they arise from erroneous payments of pay and allowances, and only if collection would be against equity and good conscience and not in the best interest of the United States. A debt cannot be considered for waiver unless the payment was erroneous when made, and we have held that a debt arising from the unearned portion of an SRB does not arise from an erroneous payment, since the payment was proper when made. Charles E. Raiford, Jr., B-254196, Dec. 23, 1993.

In the present situation the SRB payments Mr. Parker received were proper when made (and subject to recovery because of his early discharge) and therefore cannot be considered for waiver.

While Mr. Parker contends that the Air Force broke a contract with him by assigning him to a job other than the one he expected, it is well established that a military member's pay and allowances are governed by applicable statutes and regulations and are not subject to contract principles. Petty Officer John R. Blaylock, USN, 60 Comp. Gen. 257 (1981). Furthermore, military personnel assignments are matters within the discretion of the military departments, and this Office will not question Mr. Parker's duty assignment. Senior Chief Petty Officer John J. Chiumento, USN (Retired), B-244598, Oct. 2, 1991.

Accordingly, we affirm the Claims Group's partial denial of Mr. Parker's waiver request.

Robert P. Murphy  
General Counsel