28753

DECISION

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

FILE: B-200460 **DATE:** July 10, 1984

MATTER OF: Josie W. Thomas - Proof Required for Compensation Claim

DIGEST:

An employee separated by the State Department claims compensation for 80 hours unpaid annual leave, states that she does not recall receiving a salary check made payable to her, and questions whether the endorsement on the copy of that check is hers. The State Department has shown that the employee received annual leave lump-sum payments amounting to 271 hours and the employee has provided no basis to show she is entitled to a further 80 hours. Her claim is denied since the burden of proof is on the claimant to establish her claim. The question of whether the endorsement on the salary check was forged should be referred to the Examiner of Questioned Documents, Department of the Treasury.

Ms. Josie W. Thomas has appealed the denial of her claim for payment of 80 hours annual leave and for $514.82 for salary which she alleges was never paid to her. Since Ms. Thomas has not produced evidence sufficient to prove her claim it must be denied.

The record shows that Ms. Thomas was separated from the service on December 12, 1980, by the Department of State. Subsequent to her termination, Ms. Thomas claimed that 117 hours of accrued annual leave had not been included in her lump-sum leave payment. She stated that 80 hours of her annual leave was improperly forfeited upon her termination. She claimed she was improperly charged for 31 hours of annual leave on May 6, 7, 8 and 9 of 1980. She also requested a further 6 hours of annual leave be restored to her account incident to a recommended decision in a grievance she had filed.

In its denial of Ms. Thomas' claim, our Claims Group pointed out that no leave was forfeited by Ms. Thomas upon her separation. It appears that Ms. Thomas construed a leave and earnings statement showing 80 hours of annual leave under the "Forfeit" category as indicating that she

029393

had indeed forfeited the leave. The "Forfeit" category merely showed what Ms. Thomas would have forfeited at the end of the leave year had the leave not been used. Since Ms. Thomas was separated prior to the end of the leave year there was no forfeiture. Ms. Thomas was in fact paid for the 80 hours of leave when she received her lump-sum leave payment. Our Claims Group found that 31 hours of annual leave charged in error on May 6, 7, 8, and 9, 1980, was recredited to Ms. Thomas' leave account in pay period 18 of 1980. Also, the 6 hours of annual leave improperly charged in pay period 8 of 1980 was restored and changed to duty status. The value represented by these hours of leave was either included in Ms. Thomas' lump-sum leave check at the time of her separation, or in a supplemental check issued later to correct various errors.

Ms. Thomas continues to contest our Claims Group's assessment of her annual leave lump-sum payment. She states that she is still due 80 hours annual leave credit but she has produced no evidence to show that her annual leave was not properly computed.

Our regulations concerning the basis of claim settlements state:

> "Claims are settled on the basis of the facts as established by the Government agency concerned and by evidence submitted by the claimant. Settlements are founded on a determination of the legal liability of the United States under the factual situation involved as established by the written record. The burden is on the claimants to establish the liability of the United States, and the claimants right to payment. The settlement of claims is based upon the written record only." 4 C.F.R. § 31.7 (1984).

The State Department has shown that Ms. Thomas was paid for 271 hours of accrued annual leave upon her separation. We have been provided with no basis upon which we could find that Ms. Thomas is entitled to a further 80 hour annual leave lump-sum payment.

Our Claims Group also found that Ms. Thomas was in fact paid for each pay period of work she performed but

Ms. Thomas now states that she does not recall receiving one of the salary checks made payable to her. Ms. Thomas also says that the endorsement on the copy of the check does not look like her signature. If Ms. Thomas is alleging she never received the check in question and believes the endorsement on it was forged, she should refer the matter to the Examiner of Questioned Documents, Division of Check Claims, Department of Treasury for his advice. Until we are notified to the contrary, we shall assume that the check in question was properly endorsed and Ms. Thomas has been correctly paid.

Ms. Thomas' claim for additional payment for lump-sum annual leave and salary is hereby denied.

for Milton J. Socolar
Comptroller General
of the United States