



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 9, 2007

CBCA 768-TRAV

In the Matter of LOIS J. GOVEN

Lois J. Goven, Colorado Springs, CO, Claimant.

MSgt. Michael W. Standke, Travel Pay Analyst, Department of the Air Force, Denver, CO, appearing for Department of the Air Force.

DANIELS, Board Judge (Chairman).

Lois J. Goven, an employee of the Department of the Air Force, traveled on official business on several occasions. In 2004, she submitted for reimbursement vouchers for trips she took in 1995, 1996, and 1997. The Air Force refused to make payment, believing that a statute of limitations precludes consideration of the claims. Ms. Goven objects to the agency's determination. She says that she had overlooked the vouchers during a stressful period in her life, when she continued to work despite battling significant health problems. She maintains that "this matter is little different from contract closeout, requiring that any and all legitimate Government obligations be paid."

The statute of limitations to which the Air Force refers is contained in 31 U.S.C. § 3702 (2000). Subsection (a) of section 3702 authorizes the Administrator of General Services to "settle claims involving expenses incurred by Federal civilian employees for official travel and transportation." Subsection (b) says that such a claim "must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues." There are only two exceptions to subsection (b)'s limitation on the time within which a claim can be made: "as provided in this chapter or another law" and if the claim is "of a State, the District of Columbia, or a territory or possession of the United States."

“A claim accrues when all events have occurred that establish the liability of the agency and that entitle a claimant to submit a claim.” *Keith B. Williams*, GSBCA 16304-RELO, 04-1 BCA ¶ 32,472, at 160,597 (citing *Empire Institute of Tailoring, Inc. v. United States*, 161 F. Supp. 409, 410 (Ct. Cl. 1958)); *see also Greenlee Construction, Inc. v. General Services Administration*, CBCA 416, 07-1 BCA ¶ 33,514, at 166,063. Ms. Goven’s claims accrued, under this standard, when she incurred expenses while traveling on official business -- in 1995, 1996, and 1997. Ms. Goven has not suggested that a statute other than 31 U.S.C. § 3702 provides a time limitation different from the one contained in that law and applies to her claims. She is plainly not a State, the District of Columbia, or a territory or possession. Thus, the latest of her claims could be considered only if it was made to her agency or to this Board or its predecessor General Services Board of Contract Appeals (acting under delegation of authority from the Administrator of General Services) no later than some time in 2003. Unfortunately for Ms. Goven, the claims were made later than that, so they may not be considered.¹

Although a statute limiting the time within which a claim may be brought against the Government is a waiver of sovereign immunity, the Supreme Court has held that in some circumstances, the statute may be equitably tolled. These circumstances include those in which “the claimant has actively pursued his judicial remedies by filing a defective pleading during the statutory period, or where the complainant has been induced or tricked by his adversary’s misconduct into allowing the filing deadline to pass.” *Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 96 (1990). The Court says that it has “generally been much less forgiving in receiving late filings where the claimant failed to exercise due diligence in preserving his legal rights,” or with regard to “a garden variety claim of excusable neglect.” *Id.* More recently, the Court has restricted further the application of equitable tolling to claims against the Government, *United States v. Brockamp*, 519 U.S. 347 (1997), causing other courts to question the viability of the concept. *Stone Container Corp. v. United States*, 229 F.3d 1345, 1353 (Fed. Cir. 2000). In any event, the reason Ms. Goven cites for her failure to make her claims within six years of the dates on which they accrued does not constitute or even resemble one of the kinds of circumstances described in *Irwin* as justifying equitable tolling. *Kenneth A. Jones*, GSBCA 16372-RELO, 04-1 BCA ¶ 32,619; *Frank Hickey*, GSBCA 15349-RELO, 01-2 BCA ¶ 31,503; *Frank H. Khattat*, GSBCA 13711-TRAV, 97-2 BCA ¶ 29,069.

¹ We note, with regard to the employee’s assertion that “this matter is little different from contract closeout,” that a six-year limitation also applies to claims under contracts with the Government. 41 U.S.C. § 605(a) (2000); *Greenlee Construction*, 07-1 BCA at 166,063; *Gray Personnel, Inc.*, ASBCA 54652, 06-2 BCA ¶ 33,378, at 165,474-75.

The case is dismissed.

STEPHEN M. DANIELS
Board Judge