

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

TONI FELIX

84-51 Beverly Road  
Kew Gardens, Long Island  
New York

Claim No. CZ-2,097 ✓

Decision No. CZ- 2322

Under the International Claims Settlement  
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

Regosin, Edwards & Freeman ✓  
70 Pine Street ✓  
New York 5, New York ✓

PROPOSED DECISION

This is a claim against the Government of Czechoslovakia under Section 404 of Title IV, of the International Claims Settlement Act of 1949, as amended, by TONI FELIX, a national of the United States since her naturalization on November 26, 1946.

The claim was originally asserted in the amount of \$14,908.53 for the nationalization or other taking of improved real property in Brno, Czechoslovakia. Subsequently the claim was amended to include a claim against a Czechoslovak corporation, "Gefia", in the amount of 522,000 crowns for loss of salary, bonuses and severance pay.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein, owned at the time by nationals of the United States.

Cy - 11  
Cy - 9



The Commission finds that claimant owned the improved real property recorded as lots No. 1244/4 and No. 1389 in liber No. 1978 of the land register for the territory of Krizova, also referred to as House No. 1277 located at 96 Josef Barvice Street, Brno, Czechoslovakia. Claimant alleges that this property was taken by the Government of Czechoslovakia in January 1953 when the house was surrendered to the State for administration.

Claimant apparently relies upon Law 80/52 Sb., effective January 1, 1953, as the basis for finding a taking by the Government of Czechoslovakia. This law compelled owners of buildings with an annual gross rental income of 15,000 crowns or more, to deposit the rent into special accounts. From such accounts, a real property tax (45 to 50% of the gross rent) and an inheritance tax, if any, were deducted. Additionally, at least 30% of the rent was then transferred into a building repair account. Thus, in Czechoslovakia, the owner of a building having a gross rental income of 15,000 crowns or more per year was and is precluded from the free and unrestricted use of his realty and the fruits thereof. To all intents and purposes, the owner of the property, despite the fact that he may have remained the record owner, lost all control over the property and was nothing more than a collecting agent for the Czechoslovakian Government. In view of the foregoing, the Commission has concluded that improved real property having a gross rental income of 15,000 crowns or more per year was constructively taken by the Government of Czechoslovakia on January 1, 1953.

The Commission finds that claimant's real property hereinbefore described came within the purview of Law 80/52 Sb., effective January 1, 1953, and that such property was taken by the Government of Czechoslovakia without compensation on that date. The Commission further finds that the value of the property so taken was Thirteen Thousand Five Hundred Dollars (\$13,500.00) and concludes that claimant is entitled to compensation for such loss under Section 404 of the Act.

A portion of the claim is based upon the alleged losses in the amount of 522,000 crowns sustained as a result of the nationalization or other



taking by the Government of Czechoslovakia of a claim for loss of salary and severance pay due claimant's late husband, Ernest Felix, hereinafter referred to as the decedent, by a Czechoslovak corporation referred to as "Gefia". This claim allegedly arose against "Gefia" in 1941 and prior thereto.

In support of this item of the claim, claimant has submitted (1) a document dated September 12, 1938 stated to be an agreement entered into between "Gefia" and the decedent; (2) a letter dated May 3, 1948 from decedent's attorney in Brno, concerning the claim against "Gefia"; (3) a copy of an Award of the Arbitration Tribunal in Brno, by which all of the claim excepting the sum of 20,000 crowns was set aside on the grounds that it was "economically unjustified"; and (4) a letter from decedent's lawyer regarding the decision of the Arbitration Tribunal.

Claimant contends that the "annulment" of the liability of the nationalized corporation to pay a claim in a liquidated amount is tantamount to a taking of property within the contemplation of the Act.

These documents have been considered. It appears clear that the decision of the Arbitration Tribunal to "annul" the liability of the nationalized firm "Gefia", was based upon reasons which would not amount to a loss resulting from the nationalization or other taking of property. It is stated in the decision that the decedent's "work at the Brno plant had not created any permanent values"; that he had "received full remuneration for his work"; that he had been fully compensated for the termination of his contract; and that the sum of 20,000 crowns was determined to be adequate indemnification.

The Commission is of the opinion that, notwithstanding the use of the word "annulment", the action of the Arbitration Tribunal represented a determination as to the amount of compensation to which the decedent was entitled as a result of his employment with the firm in question and in no way constituted a nationalization or other taking of any property belonging to the decedent. Accordingly, it is concluded that claimant has

not established that the alleged loss resulted from the nationalization or other taking of property by the Government of Czechoslovakia within the meaning of Section 404 of the Act. This portion of the claim is, therefore, denied.

The Commission deems it unnecessary to make determinations with respect to other elements of this portion of the claim.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to TONI FELIX in the principal amount of Thirteen Thousand Five Hundred Dollars (\$13,500.00) plus interest thereon at the rate of 6% per annum from January 1, 1953 to August 8, 1958, the effective date of Title IV of the Act, in the amount of Four Thousand Five Hundred Thirty-eight Dollars and Thirty Cents (\$4,538.30), for a total award of Eighteen Thousand Thirty-eight Dollars and Thirty Cents (\$18,038.30).

Dated at Washington, D. C.

**MAY 17 1961**

BY DIRECTION OF THE COMMISSION:

*Francis T. Masterson*

---

Francis T. Masterson  
Clerk of the Commission

*Why  
by  
J*



FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

TONI FELIX  
84-51 Beverly Road  
Kew Gardens, Long Island  
New York

Claim No. CZ-2,097

Decision No. CZ-2322

Under the International Claims Settlement  
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

Regosin, Edwards & Freeman  
70 Pine Street  
New York 5, New York

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 17, 1961 granting claimant an award in the principal amount of \$13,500.00 plus interest thereon in the sum of \$4,538.30, for a total award of \$18,038.30, based on the taking by the Government of Czechoslovakia of improved real property owned by claimant.

A portion of the claim was based on an asserted loss by claimant's late husband, Ernest O. Felix (hereinafter called "decedent"), of the sum of 522,000 crowns allegedly due him by a Czechoslovak corporation called "Gefia" on account of severance pay (termination of employment contract prior to its expiration date), salary and bonuses. This was denied for the reason that it had not been established that the alleged loss resulted from the nationalization or other taking of property by the Government of Czechoslovakia within the meaning of Section 404 of the Act.

A copy of the Proposed Decision was duly served upon the claimant who filed objections thereto, insofar as it denied the portion of the claim referred to in the preceding paragraph, and a hearing was held on this matter.

RECEIVED CZ-11



Briefly, it appears that decedent was employed prior to World War II by "Gefia" in Czechoslovakia under a contract due to expire on December 31, 1941; and that in 1939 the contract was terminated by "Gefia". It further appears that "Gefia" was nationalized pursuant to Czech Law 100/1945 Sb., effective October 27, 1945. This law provided, among other things, that the State enterprise taking over the property of a concern assumes responsibility for its liabilities. It also provided that such State enterprise was entitled to rectify "by abolition or other suitable adjustment" obligations which were "economically unjustifiable". If no agreement could be reached, the matter would be referred to and decided by Arbitration Courts. Law 228/1946 Sb., effective November 21, 1946, was enacted to implement the said provisions of the nationalization statutes and pursuant to this law Arbitration Tribunals were established.

It further appears that subsequent to the termination of World War II, an action was instituted by decedent against "Gefia" in the District Court for Civil Matters at Brno-City based on the breach of the aforementioned employment contract. "Gefia" apparently admitted its liability and decedent was granted judgment for the sum of 522,000 crowns plus interest from the date of the breach of contract. "Gefia", nevertheless, referred the matter to the Arbitration Tribunal for determination. This tribunal, by decision dated November 18, 1948, "annulled" the obligation of "Gefia" to pay to decedent the amount of the judgment on the ground that it was "economically unjustified".

This matter must be considered in light of this Commission's previous decisions that (1) "creditor claims" as a general rule are not compensable under Section 404 of Title IV of the Act,<sup>1/</sup> and (2) claims against the Government of Czechoslovakia by stockholders or owners of Czechoslovak enterprises which were nationalized arose on the effective date of the nationalization decree.<sup>2/</sup>

<sup>1/</sup> Decision No. CZ-734, In the Matter of the Claim of SKINS TRADING CORPORATION, Claim No. CZ-3,978.

<sup>2/</sup> Decision No. CZ-1022, In the Matter of the Claims of MARY DAYTON and PAUL DAYTON, Claim Nos. CZ-4,113 and CZ-4,123.



If the matter before us falls within the rules of law established in either the SKINS TRADING CORPORATION or the DAYTON decisions, cited herein, it must be found to be not compensable under the Act for the nationalization decree pertaining to "Gefia" was effective October 27, 1945, a date on which decedent was not a national of the United States.

We are of the opinion that this claim is an exception to the two general rules referred to above for the following reasons. The decedent filed his action for breach of contract in the appropriate forum in Czechoslovakia where his claim was reduced to judgment. He thus became a judgment creditor of the nationalized corporation with vested rights against that enterprise. Further this matter is to be distinguished from the claim of a stockholder of a nationalized corporation whose claim arose on the date of the nationalization of such corporation or its assets. Here we have a judgment creditor whose rights were fixed by a court of law in Czechoslovakia subsequent to the nationalization of the primary debtor. Indeed, the Commission has recognized the distinction between these types of claims in making awards to owners of bonds of nationalized corporations, holding that claims based on bond obligations did not arise on the date of the nationalization of the corporation or its assets, but, rather, on June 1, 1953 when the obligation to pay these bond obligations was annulled pursuant to the provisions of Czechoslovak Law 41/53 <sup>3/</sup> Sb.

As stated above, decedent had a vested right as a judgment creditor and we feel that the action of the Arbitration Tribunal, which was an official arm of the Czechoslovak Government, in annulling decedent's rights therein amounted to a confiscation or taking of property within the meaning of the statute.

After due consideration of this matter, we find that the principal amount plus interest of "Gefia's" obligation to the decedent on November 18, 1948 when the Arbitration Tribunal annulled his vested rights was

<sup>3/</sup> Decision No. CZ-683, In the Matter of the Claim of CLAIRE L. CLAUS, Claim No. CZ-1,082.



737,586 crowns and conclude that the claimant herein is entitled to compensation for this loss. Accordingly, it is

ORDERED that the Proposed Decision heretofore issued be and it hereby is amended to conform with the foregoing, the award being restated as follows:

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to TONI FELIX in the principal amount of Twenty-eight Thousand Two Hundred Fifty-one Dollars and Seventy-two Cents (\$28,251.72), as follows: \$14,751.72 for the annulled obligation and \$13,500.00 for the real property, plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of Title IV of the Act, in the amounts of \$8,602.76 and \$4,538.30, respectively, for a total award of Forty-one Thousand Three Hundred Ninety-two Dollars and Seventy-eight Cents (\$41,392.78); and it is further

ORDERED that the Proposed Decision as herein amended be and the same is hereby entered as the Final Decision on this claim, and that the award granted herein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

NOV 22 1961

*Edward J. Off*  
*Theodore Joffe*  
*La Vern R. Diweg*

COMMISSIONERS