

DECISION

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

50959

FILE: B-183278

DATE: SEP 18 1975

97507

MATTER OF: Reimbursement for shipment of household goods
in advance of retirement - Colonel Jack L.
Keith, USAF, Retired

- DIGEST:
1. Member who transported his household goods from his last permanent duty station to his retirement home at time he applied for voluntary retirement, but which was prior to actual retirement and one year prior to approval of retirement request, is not entitled to reimbursement for such transportation costs, since para. M8015-1, JTR, provides that transportation at Government expense is not authorized prior to issuance of orders, except in case of emergency, exigency of service, or when required by service necessity.
 2. Member may not be reimbursed for household goods' shipping costs incurred based upon erroneous information received from superior officer, since in the absence of specific statutory authority United States is not liable for negligent or erroneous acts of its officers, agents, or employees committed in the performance of official duties.

This action is in response to a letter dated January 23, 1975, from Colonel Jack L. Keith, USAF, Retired, requesting reconsideration of a settlement by our Transportation and Claims Division dated October 1, 1973, which disallowed his claim for reimbursement of costs incurred in transporting his household goods on December 31, 1971, incident to his retirement from the United States Air Force, effective January 1, 1973.

The record shows that on December 8, 1971, the member applied for voluntary retirement to become effective January 1, 1973. Concurrently, he submitted a request for shipment of his goods prior to issuance of retirement orders. In anticipation of receiving approval of his requests, he moved his household goods at personal expense from his permanent duty station, Langley Air Force Base, Virginia, to Miami, Florida, on December 31, 1971. His request for advance shipment was subsequently disapproved by undated letter from Headquarters Air Force Military Personnel Center, Randolph Air Force Base, Texas. This occurred sometime between December 8, 1971, the date of the request, and January 17, 1972, the date of the letter to the member from the Chief of Transportation, Langley Air Force Base, Virginia, which notified him of the disapproval.

The member contends that he is entitled to reimbursement for costs incurred in the transportation of his household goods because he was advised by a superior officer, who the member contends had successfully arranged for such an advanced move himself in connection with his retirement that he should have no difficulty in obtaining reimbursement for advanced shipment of his household goods. Additionally, the member contends that while the Government would have had to pay \$585.00 for the same move, he is claiming only \$211.88, which represents a considerable savings to the Government for which he should not be penalized.

The liability of the Government for the cost of transporting a member's household goods is limited to that provided by law and regulations. Section 406 of title 37, United States Code (1970), provides in subsection (b) that a member of a uniformed service is entitled to the transportation of his household effects, or reimbursement therefor, in connection with ordered changes of station and in subsection (g) that under uniform regulations prescribed by the Secretaries concerned, a member who is retired is entitled to the transportation of his dependents and household effects to his home of selection.

The before-mentioned provisions are implemented by the Joint Travel Regulations, paragraph M8000-6 (change 200, September 1, 1969) of which included, as a change of permanent station, the movement from the last permanent duty station to home upon retirement. Paragraph M8015-1, of the same regulations (change 220, May 1, 1971), in effect at the time the member shipped his household effects, provided that the transportation of household effects is not authorized prior to the issuance of orders except in cases of emergency, exigency of the service, or when required by service necessity, as determined by the appropriate authority of the uniformed service concerned.

In this connection, subparagraph 1-16a(1) of Air Force Manual 75-4, November 13, 1970, entitled "Movement and Storage of Personnel Property", provides in pertinent part that shipment of household goods prior to issuance of orders incident to retirement may be approved by "The Director of Personnel Program Actions, Asst DCS/Personnel for Military Personnel, HQ USAF, USAFMPC (DPMA), Randolph AFB, TX 78148," subject to the conditions that the voluntary retirement orders are published within 48 hours after the application is approved and medical clearance is received. However, when publication of retirement orders is delayed and the member would experience severe personal and financial hardship due to lack

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of authority to ship personal property, requests for authority for such shipment would not be issued more than 90 days in advance of the effective date of retirement.

The member's application for voluntary retirement which was dated December 8, 1971, and which the file indicates was approved in December 1972, requested retirement on January 1, 1973; however, his household goods were moved at personal expense and for personal reasons on December 31, 1971, before the date of his retirement and one year prior to approval of his request for retirement. In such circumstances, regardless of any possible savings to the Government, there is no authority for reimbursement for the household goods movement.

With regard to the member's contention that he acted in reliance upon information supplied by a superior officer, it has been consistently held by this Office that the receipt of information, later established to be erroneous, by one dealing with a Government official, which was relied upon by the recipient to his detriment, does not afford a legal basis for a payment from appropriated funds. In the absence of specific statutory authority to the contrary, the United States is not liable for the negligent or erroneous acts of its officers, agents, or employees, even though committed in the performance of their official duties. See 44 Comp. Gen. 337 (1964) and 53 Comp. Gen. 834 (1974).

While it is regrettable that the member may have been misled by erroneous information, that fact is insufficient to authorize payment from appropriated funds.

Accordingly, the action taken by our Transportation and Claims Division in this case is sustained.

R. F. MILLER
Deputy Comptroller General
of the United States