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Marilyn Eaton  
Civ. Pers.

**DECISION**



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

**FILE:** B-187162

**DATE:** February 9, 1977

**MATTER OF:** David E. Meisner -- Claim for reimbursement of relocation expenses

**DIGEST:** Statutes and regulations give agency broad discretion in determining whether relocation of employee's residence 3.9 miles closer to new duty station is incident to transfer. Denial of payment on grounds of insufficient savings of time and distance is tantamount to finding that relocation is not incident to transfer. Therefore, no basis for payment of claim exists.

The Acting Director of the Financial Management Division, U. S. Customs Service, Department of the Treasury, Los Angeles, California, a certifying officer, requests an advance decision whether a claim by Special Agent David E. Meisner for reimbursement of relocation expenses incurred in anticipation of the transfer of his official duty station from Terminal Island, California, to the Civic Center in Los Angeles, California, may be certified for payment.

Payment has been denied on three separate occasions, both before and after transfer, by the Regional Director for Internal Affairs, U.S. Customs Service, Los Angeles, on grounds that the relocation did not result in a sufficient savings of commuting time or distance, was not in the best interest of the Government, and therefore did not qualify for reimbursement by the Government. A grievance report prepared by the Regional Personnel Officer, U.S. Customs Service, San Francisco, prior to the actual transfer sustained the action of the Regional Director in disallowing Mr. Meisner's claim for reimbursement of relocation expenses.

The record shows that the Terminal Island Customhouse was moved to downtown Los Angeles, a distance of 25 miles, on July 23, 1976, as the result of a reorganization in which all regional functions of the U.S. Customs Service were to be housed together (collocated).

The exact date on which employees officially were notified of the transfer is uncertain. Mr. Meisner states that there were indications of an impending move as early as June, 1975, and that verbal notice was given in January, 1976. A memorandum listing

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Mr. Meisner and other employees as "eligible for relocation expenses provided we move to the downtown location," dated February 23, 1976, and signed by the Regional Director for Internal Affairs, was considered by the grievance examiner to confirm the fact that official notice had been given before that date. The memorandum actually provided that information received from Financial Management Division indicates that the employees named therein are eligible for relocation expenses provided the move is made to the downtown location. Mr. Meisner states that employees were told at the time the memorandum was issued that relocation expenses would not be authorized unless residence changes resulted in savings of commuting time and distance. In block 30 of the notification of Personnel Action dated July 29, 1976, notifying employees of change in duty station there is typed the following:

"Employee will be entitled to relocation expenses provided a savings in time and for commuting distance is accomplished. Employee must have the approval of the Regional Director Internal Affairs, prior to incurring expenses for relocation."

Mr. Meisner sold his residence in Huntington Beach, California, on March 20, 1975, and purchased a new residence 24 miles away in Placentia, California, on May 15, 1976.

Mr. Meisner states that his former residence is 34.4 miles from his new duty station, with a one-way commuting time of approximately 50 minutes. His new residence is 30.5 miles from his new duty station, with a commuting time of approximately 38 minutes. The one-way savings effected by the relocation therefore are 3.9 miles and 12 minutes commuting time, according to the claimant. The Regional Director for Internal Affairs, however, disputes those figures. Congestion on the freeways used to measure the saving in distance, he states, would increase commuting time; an alternate route would decrease commuting time but would increase the distance by approximately 10 miles.

Payment of travel, transportation, and relocation expenses of transferred Government employees is authorized by 5 U.S.C. 5724 and 5724a (1970) and implemented by the Federal Travel Regulations (FPMR 101-7) (May 1973). These regulations, provide in pertinent part as follows:

"2-1.3. Travel covered. When change of official station or other action described below is authorized or approved by such official or officials as the head of the agency may designate, travel and transportation expenses and applicable allowances as provided herein are payable in the case of (a) transfer of an employee from one official station to another for permanent duty, Provided That: the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee or at his request; the transfer is to a new official station which is at least 10 miles distant from the old official station; and, in case of a relatively short distance relocation, a determination of eligibility is made under the provisions of 2-1.5b(1);  
\* \* \*

\* \* \* \* \*

"2-1.5 b. Short distance involved.

"(1) Transfers. When the change of official station involves a short distance within the same general local or metropolitan area, the travel and transportation expenses and applicable allowances in connection with the employee's relocation of his residence shall be authorized only when the agency determines that the relocation was incident to the change of official station. Such determination shall take into consideration such factors as commuting time and distance between the employee's residence at the time of notification of transfer and his old and new posts of duty as well as the commuting time and distance between a proposed new residence and the new post of duty. Ordinarily, a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station. Even then, circumstances surrounding a particular case (e.g., relative commuting time) may suggest that the move of residence was not incident to the change of official station."

Our Office consistently has held that in short distance relocations, the applicable statutes and regulations give an agency

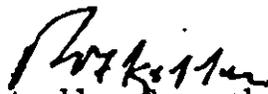
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broad discretion in determining whether an employee's move from one residence to another is incident to the change of official duty station. 51 Comp. Gen. 187 (1971); B-184029, January 26, 1976; B-179907, June 7, 1974. Unless such a determination is made by the agency no basis for payment of the claim exists. 51 Comp. Gen. 187, supra.

In a number of decisions on short distance relocations, we have not objected to reimbursement. We believe these cases are distinguishable, because the facts and circumstances in each indicate that relocation was incident to transfer. For example in 54 Comp. Gen. 751 (1975), cited by the claimant, following a transfer from Virginia to Pennsylvania, the employee leased a residence one mile from his former home only after his family had occupied temporary quarters near the new duty station for 26 days and his children had attended Pennsylvania public schools. We therefore found the expenses had been incurred in a good faith effort to relocate near the new duty station. See also B-175822, June 14, 1972, in which the employee relocated in the same city as his former residence, San Jose, California, because after sale of his house with the intention of relocation in Monterey, California, his wife was unable to find employment there, and B-172705 May 28, 1971, in which the employee had notified his landlord of his transfer, other tenants had leased the premises, and a "critical housing shortage" existed at the new official duty station, Broken Bow, Oklahoma. In the latter cases, the agencies also had determined that the relocations were incident to transfer.

Since our Office has interpreted the requirement that the transfer be "in the interest of the Government \* \* \*" to refer to transfer of the official duty station, rather than to transfer of the employee's residence, B-184890, August 3, 1976, a determination that the change of residence was not in the best interest of the Government is not dispositive. We believe, however, that continued denial of requests for reimbursement of relocation expenses on grounds of insufficient savings of time and distance is tantamount to a finding by the employing agency that the relocation of the employee's residence was not incident to the transfer of duty station.

Accordingly, the voucher may not be certified for payment.

  
Deputy Comptroller General  
of the United States