DOCUMENT RESUME

00883 - [A0891557]

[Transferred Employee Was Erroneously Authorized Car Rental Expenses for Local Travel]. B-188106. March 3, 1977. 4 pp.

Decision re: Charles O. Dougherty; by Robert F. Keller, Acting Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).
Contact: Office of the General Counsel: Civilian Personnel.
Budget Function: General Government: Central Personnel Management (805).
Organization Concerned: Department of the Army.
Authority: 5 U.S.C. 5724a(a)(2); F.T.R. (FPMR 101-7), para. 2-4.2. F.T.R. (FPMR 101-7), para. 1-2.3. B-182503 (1975). B-185029 (1976). 23 Comp. Gen. 713. 24 Comp. Gen. 439. 47 Comp. Gen. 127. 54 Comp. Gen. 638.

Transferred Army employee erroneously authorized car rental expenses claimed reimbursement for local travel in connection with a househunting trip incident to his change of duty station. Reimbursement of local transportation for househunting at the new station was prohibited, but the employee could be reimbursed for transportation between the airport and lodgings. (RRS)

Wm Hawkins
Air Force

00883

DECISION

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

FILE: B-188106 DATE: March 3, 1977

MATTER OF: Charles O. Dougherty - Househunting travel expenses

DIGEST: Transferred employee was erroneously authorized car rental expenses for local travel at new station in connection with househunting trip. After performance of travel orders were amended to delete car rental authorization. Car rental expenses for local transportation may not be reimbursed since FTR para. 2-4.2 prohibits reimbursement of local transportation at new station and general rule against retroactive modification of travel orders does not prohibit correction of orders issued in contravention of regulations. However, if employee was not paid for transportation between airport and lodgings, he will be paid constructive amount permitted by FTR para. 1-2.3c.

By a letter dated December 17, 1976, Mr. Charles O. Dougherty appealed the denial by our Claims Division of his claim for local transportation expenses incurred in connection with a househunting trip incident to a permanent change of station.

The record indicates that by Travel Order No. TO 0283, dated July 29, 1974, Mr. Dougherty, an employee of the Department of the Army, was authorized to transfer from Fort Hood, Texas, to Fort Lee, Virginia. In addition, the travel order authorized the claimant to use a motor vehicle rental service at Government expense while on a househunting trip in the area of his new duty station. Mr. Dougherty and his wife made their househunting trip during the period from August 4 - 10, 1974, and incurred car rental expenses in the amount of $79.92. Following his return to Fort Hood, Mr. Dougherty was informed that the initial authorization of rental vehicle expenses was in error, and his travel orders were amended by Letter Order No. 0823, dated August 20, 1974, which deleted the rental authorization.

On December 3, 1974, Mr. Dougherty submitted his travel voucher to the Finance and Accounting Office at Fort Lee, at which time he was advised that his claim of $79.92 would not be paid because his travel orders had been amended to delete the use of a rental vehicle The matter was subsequently referred by the Army Finance Center to our Claims Division as a doubtful claim with a recommendation that payment not be approved. By Settlement Certificate No.

Z-2618981, dated November 17, 1976, the Claims Division denied Mr. Dougherty's claim because paragraph 2-4.2 of the Federal Travel Regulations (FPMR 101-7, May 1973) provides that, with the specific exception of travel between an airport, depot, or similar terminal and the place of lodging, no reimbursement shall be made for expenses of local transportation in the locality of the new official station. In appealing the Claims Division settlement, Mr. Dougherty contends that reimbursement would be proper in this case since he had incurred the expenses in good faith reliance on the original authorization. In addition, Mr. Dougherty questions whether his travel orders could legally be amended to delete the authorization after the travel had been performed.

Statutory authority for reimbursement of transportation expenses to seek permanent residence quarters at a new official station is located at 5 U.S.C. 5724a(a)(2) (1970). Paragraph 2-4.2 of the Federal Travel Regulations (FPMR 101-7, May 1973) implements that authority and provides in pertinent part:

> "No reimbursement shall be made for expenses of local transportation in the locality of the new official station, except that normal costs of transportation between depots, airports, etc., and place of lodging shall be allowed."

Thus, the regulations clearly prohibit the use of a rental vehicle at Government expense for local transportation. Moreover, this Office has held that, under the above paragraph, transportation between neighborhoods, communities, school districts, realty offices, banks, savings and loan agencies, insurers, and other sources of information or services is deemed to be local transportation in the locality of the new official station. Further, the word "etc." in the above paragraph has been interpreted to mean a place such as a railroad or bus terminal at which one arrives or departs from a given area. B-182503, January 16, 1975.

In view of the above, the administrative officer who issued Mr. Dougherty's travel orders had no discretion or authority to authorize the use of a rental vehicle at Government expense for local transportation. Similarly, because the

Federal Travel Regulations have the force and effect of law and may not be waived or modified by either the employing agency or this Office, there is no authority by which these expenses, even though erroneously authorized and incurred, may be reimbursed.

Regarding the retroactive amendment of Mr. Dougherty's travel orders to delete the authorization of a rental car for local transportation, the general rule is that legal rights and liabilities in regard to travel allowances vest as and when travel is performed under competent orders. In general, such orders may not be revoked or modified retroactively so as to increase or decrease the rights and benefits which have become fixed under the applicable statutes and regulations. We have recognized an exception to the above rule when an error is apparent on the face of the orders or where all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the orders. 23 Comp. Gen. 713 (1944); 24 id. 439 (1944); 47 id. 127 (1967); 54 id. 638 (1975).

It should be noted that the prohibition against retroactive modification except in the limited circumstances described above applies only to competent orders. It is not a mechanism by which an authorizing official may expand the scope of his authority as otherwise limited by applicable law and regulations. For this reason, the general rule against retroactive modification applies only to the extent the specific provision in the orders is properly within the scope of authority granted the authorizing official. Thus, while a travel order may not be amended to correct an error in judgment committed in the proper exercise of authority, it is not a bar to retroactive amendment of an order whose provisions are clearly in conflict with a law, agency regulation or instruction. B-185429, July 2, 1976.

In the present case, the language of the initial travel order purporting to authorize use of rental vehicle service for local transportation is directly contrary to the provisions of FTR para. 2-4.2 prohibiting reimbursement of local transportation expenses. Since it was not within the scope of authority of the administrative official to prescribe reimbursement of such costs, the amendment to the travel order was properly issued, and,

to the extent that the claimed rental vehicle expenses are attributable solely to local transportation, such expenses were properly disallowed by the Claims Division.

FTR para. 2-4.2, however, provides reimbursement for the normal costs of transportation between the place of lodging and depots, airports, or other places of arrival and departure. In that regard, FTR para. 1-2.3c provides:

> "To and from carrier terminals: Reimbursement will be allowed for the usual taxicab and airport limousine fares, plus tip, from common carrier or other terminal to either the employee's home or place of business, from the employee's home or place of business to common carrier or other terminal, or between an airport and airport limousine terminal. However, an agency shall, when appropriate, restrict the use of taxicabs hereunder or place a monetary limit on the amount of taxicab reimbursement when suitable Government or common carrier transportation service, including airport limousine service, is available for all or a part of the distance involved."

In the case before us, there is no indication whether Mr. Dougherty received reimbursement of the costs of transportation between the airport terminal at Richmond, Virginia, and his place of lodging while on travel to seek new permanent quarters. We note, however, that Mr. Dougherty apparently obtained the vehicle upon his arrival at the Richmond Airport and returned it to that location.

Accordingly, this matter is being returned to our Claims Division for further factual development. If a determination is made that Mr. Dougherty was not paid for transportation to and from the airport terminal and his lodgings, he will be paid the constructive cost of such transportation by the means authorized in FTR para. 1-2.3c.

Acting Comptroller General
of the United States