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DECISION



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

FILE: B-187852

DATE: April 4, 1977

MATTER OF: Julia E. Phelps - Temporary Quarters Subsistence Expenses, Transportation of Household Goods

DIGEST: Air Force employee at Albuquerque, New Mexico, who transferred at own expense to Defense Supply Agency position in Los Angeles, California, after nonselection for desired Air Force position in that area was subsequently given desired Air Force position after finding of discrimination and now claims relocation expenses. Employee may be paid neither for temporary quarters subsistence because permanent quarters were not vacated and required documentation is lacking nor for transportation of household goods because the record does not contain actual or constructive weight or acceptable estimate thereof.

By letter dated November 8, 1976, Ms. Yvonne Brathwaite Burke, Member of Congress, requests reconsideration of that portion of the settlement action of October 1, 1976, by our Claims Division disallowing the claim of Ms. Julia E. Phelps, No. Z-2622826, for reimbursement for temporary quarters subsistence expenses and transportation of household goods because of inadequate supporting documentation.

From the file it appears that in June 1974, Ms. Phelps, then a Procurement Specialist grade GS-6 employed by the Department of the Air Force at Kirkland Air Force Base and residing at Albuquerque, New Mexico, applied for a position of Industrial Specialist grade GS-5 with the Air Force at Culver City, California, in the greater Los Angeles area. This position provided opportunity for advancement to grade GS-9.

The claimant was not selected for the position and she filed a discrimination complaint in September 1974. Later that month on September 29, 1974, she transferred to a grade GS-5 position in the Defense Supply Agency at Los Angeles, California, without a break in service. Incident to this transfer, she moved with one dependent from Albuquerque, New Mexico, to Inglewood, California, at her own expense.

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The complaint filed by Ms. Phelps resulted in a finding of discrimination because of race or color and age on July 10, 1975, and an offer of a position with the Air Force at Hawthorne, California, in the greater Los Angeles area, like the one she had formerly been denied. The claimant accepted this position, and was transferred to it on September 7, 1975. Travel orders were not issued because she was already residing in the area. Subsequently she was advised that she could file a claim for reimbursement for travel and transportation expenses incurred when she moved from Albuquerque to Inglewood in September 1974, at her own expense, which she did on or about December 5, 1975. However, neither the Kirkland Air Force Base nor the Defense Supply Agency installation in Los Angeles would issue retroactive travel orders and the claim was referred to the Claims Division, where it was received on March 1, 1976. The Department of the Air Force recommended payment of the claim on the grounds that, had it not been for the discrimination, the claimant would have been selected for the position for which she applied, travel orders would have been issued, and allowable permanent change of station travel and transportation expenses would have been paid.

The Claims Division concluded that the absence of travel orders should not bar recovery in these circumstances and allowed Ms. Phelps' claim for mileage (\$81), miscellaneous expenses (\$200), and per diem (\$87.50) for a total of \$368.50. However, reimbursement for claimed temporary quarters subsistence expenses and transportation of household goods was disallowed because these items were not supported by receipts or other required documentation.

In support of her claim of \$677.10 for reimbursement of temporary quarters subsistence expenses (TQSE), Ms. Phelps submitted a "reconstructed" itemized statement for a 30 day period, August 28, 1974, through September 26, 1974, containing identical amounts for each day as follows: lodging at a Quality Inn in Los Angeles \$16.50, breakfast \$5, lunch \$3, and dinner \$7 for a total of \$31.50 per day or \$945 for the 30 day period. In addition the statement including amounts of \$24 for dry cleaning and \$6 for coin machine laundry, making a grand total of \$975. The difference between this amount and the amount claimed, \$677.10, is presumably attributable to the limitation imposed on TQSE by law and regulation.

No receipts have been submitted for any of these items. The claimant states that the amounts shown for lodging costs are based

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on information obtained on November 26, 1975, from the Quality Inn as to their rates in effect in August and September 1974. The file contains no information as to how the amounts for meals, laundry, and dry cleaning were arrived at. Additionally, it appears that during the 30 day period for which TQSE at Los Angeles are claimed August 28, 1974, through September 26, 1974, Ms. Phelps was still assigned to her position with the Air Force at Kirkland Air Force Base, New Mexico, some 800 miles distant, since Notifications of Personnel Action in the file indicate that she was not separated from that position until September 28, 1974, and was not appointed to her position with the Defense Supply Agency in Los Angeles until September 29, 1974. Moreover the file indicates that Ms. Phelps (1) did not depart from Albuquerque until September 25, 1974; (2) that she arrived at Inglewood on September 27; (3) that she claimed and was paid per diem for this three day period, two days of which are included in her TQSE claim; and (4) that neither she nor her dependent vacated her permanent quarters at her old duty station, Albuquerque, until September 26, 1974. The file does not indicate when she first occupied permanent quarters at her new duty station.

The authorities governing the payment of TQSE are 5 U.S.C. 5724a(a)(3) and the implementing statutory regulations, part 5 of chapter 2, Federal Travel Regulations (FTR), May 1973, FPMR 101-7, as restated and amplified for Department of Defense employees in volume 2 of the Joint Travel Regulations (2 JTR). These regulations provided at the time in question, in pertinent part, as follows:

Paragraph C8250 now C13000.

"* * * Temporary quarters refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee and/or his dependents who have vacated the residence quarters in which they were residing at the time the transfer was authorized. * * *"
(Emphasis added.)

Paragraph C8255 now C13005.

"1. GENERAL. Reimbursement will be only for actual subsistence expenses incurred not to exceed the maximum authorized, providing these

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are directly related to occupancy of temporary quarters, are reasonable as to amount and can be substantiated. * * * (Emphasis added.)

Paragraph C10012-5a now C13006-5a.

"There is no eligibility for temporary quarters subsistence expense during any period in which travel status occurs with or without travel per diem allowance. * * *"

Paragraph C10012-6 now C13006-6.

"a. General. Receipts and supporting documentation must be furnished with a claim for reimbursement of temporary quarters subsistence expenses as prescribed in subpars. b and c.

"b. Receipts. Receipts are required as follows:

- "1. for quarters costs paid, showing location, dates, and by whom occupied;
- "2. for laundry and cleaning expenses showing the date incurred, except when coin operated facilities are used.

"c. Supporting Documentation. A statement will be required showing the cost for each meal for each day, by date. The location where and by whom meals were taken also will be shown. If travel status and occupancy of temporary quarters for subsistence expense purposes occur in the same day, the claimant will show the date and time of arrival and/or departure at the temporary quarters location. The date that occupancy of permanent quarters begins or that household goods are moved into quarters must be shown. * * *"

Thus, on the record before this Office, Ms. Phelps' claim for TQSE fails on three counts. First, decisions of this Office interpreting paragraph C8250, supra, have consistently held that

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such expenses may not be allowed where, as here, neither she nor her dependent had vacated their residence quarters at the former duty station prior to the period covered by the claim. B-187519, January 26, 1977; B-185696, May 28, 1976; B-184579, June 14, 1976.

Second, payment is precluded by paragraph C10012-5a., supra, for that portion of the period claimed during which she was in a travel status and received per diem.

Third, the documentation requirements of paragraph C10012-6, supra, have not been met. It is true that in a few highly unusual situations, as where receipts have been stolen and duplicates could not be obtained, other evidence of actual expenditures for lodging and dry cleaning have been accepted in lieu of receipts. B-183265, May 27, 1975; B-180242, April 8, 1974. However, the general rule remains that receipts which comply with the regulatory requirements must be furnished before payment of this allowance may be authorized. B-185514, September 2, 1976; B-176882, November 14, 1972.

Additionally, listing of identical amounts for meals for each day and for coin operated laundry for each ten day period appear at best to be estimates. Such estimates have been held to be unacceptable as evidence of actual expenditures for these items. 52 Comp. Gen. 78 (1972); B-174582, January 12, 1972; B-163711, May 14, 1968.

Ms. Phelps' claim of \$721.44 for the cost of transportation of household goods is based on actual expenses rather than a commuted rate. However, on the record before this Office, it may not be allowed on either basis since she has submitted in support thereof only (1) a receipt in the amount of \$271.44 for the rent of a truck on September 24, 1974; (2) her statement that she paid an individual \$450 to move her household goods but that she was unable to locate the receipt, and (3) her estimate of the weight, 8,000 pounds, based on a move from San Bernardino, California, to Albuquerque, New Mexico, some 2 years earlier in September 1972. The file contains no bills of lading or weight certificates, no information as to the availability of weighing facilities, no listing of items shipped or their measurements, and nothing to indicate the size or capacity of the truck or whether it was properly loaded.

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The authorities governing payment for the shipment of household goods are 5 U.S.C. 5724(a)(2) and 5724(c), and the implementing statutory regulations, part 8 of chapter 2, FTR, as restated and amplified by 2 JTR. These regulations provided at the time in question, in pertinent part, as follows:

Paragraph C10006-2b now C8008-2b.

"Evidence of Shipment. Paid carrier's original bill of lading or a certified copy thereof will be attached to the voucher. Official weight certificate or authenticated weight designation also will be attached. If no bill of lading is available, other evidence showing point of origin, destination, and weight must be submitted. In instances in which no proper weighing facilities are readily available at point of origin, or any point en route, or at destination, a constructive weight, based upon 7 pounds for each cubic foot of properly loaded van space, may be used. * * *" (Emphasis added.)

Paragraph C10201 now C8009.

"Receipts should be in the form of carrier's original bills of lading, or a certified copy thereof. If a bill of lading is not used, the receipt will show point of origin, destination, and weight. When the employee fails to furnish the actual or constructive (cubic foot measurement) weight of a shipment of household goods, payment upon a commuted basis is not authorized. In such cases, reimbursement will be limited to the amount actually expended by the employee, provided that such amount does not exceed that payable at the commuted rate, and provided further that the employee furnishes an acceptable statement of estimated weight (28 Comp. Gen. 95)." (Emphasis added.)

Since the file contains no acceptable evidence of either the actual or constructive (cubic foot measurement) weight of the shipment, payment for the transportation of the household goods on a

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commuted rate basis is precluded by paragraph C10201, supra. Further, where only an estimate of the weight has been provided, actual expenses, not to exceed the commuted rate amount, may be allowed under this regulation only when the explanation as to how the estimate was arrived at affords a reasonable basis to conclude that it approximates the actual weight of the goods transported. B-181334, March 28, 1975.

An estimate made by Ms. Phelps and supported only by her statement that it was based on a prior shipment some two years earlier does not meet this test since it does not provide sufficient evidence either of the weight of the prior shipment or that it approximated the weight of the later shipment here in question. B-185626, July 1, 1976. Moreover, it has been held that documentation of the weight of one shipment does not cure defects in the documentation of the weight of another shipment some two years distant in time. B-180897, April 21, 1975.

Therefore, the settlement action of the Claims Division disallowing Ms. Phelps' claims for temporary quarters subsistence expenses and the cost of transporting household goods must be sustained.


Acting Comptroller General
of the United States