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DECISION



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

FILE: B-190070

DATE: December 16, 1977

MATTER OF: Joseph J. Kisiolek - Taxi Fares

DIGEST: Department of Army employee on renewal agreement travel used taxi between residence in Seoul, Korea, and Osan Air Force Base, Korea. Army denied claim for taxi fares because Government bus service was available and 8th Army regulation did not allow reimbursement for commercial transportation when Government transportation was available. Employee claimed there was no reliable bus service. GAO decides cases on written record. Where there is irreconcilable dispute of fact between agency and employee, GAO resolves dispute in favor of agency since it does not conduct adversary hearings. As there is irreconcilable conflict between agency and employee version of facts, claim is denied.

Mr. Joseph J. Kisiolek, an employee of the Department of the Army, appeals our Claims Division's denial of his claim for the cost of taxi fares incurred incident to travel he performed to Osan Air Force Base (AFB), Korea, from his residence in Seoul, Korea (Yongsan Compound), and return.

Mr. Kisiolek traveled by taxi on June 5 and July 23, 1975, on his way from and return to Korea, respectively, as part of his renewal agreement travel. The Department of the Army denied Mr. Kisiolek's claim for taxi fares on the basis that Government transportation was available between Osan AFB and Yongsan and that 8th Army regulations provide that commercial travel in Korea will be authorized only when Government transportation is not available. Our Claims Division affirmed the Army's denial of Mr. Kisiolek's claim.

Mr. Kisiolek submits a newspaper article as evidence that existing U.S. Army bus service between Seoul and Osan was unreliable when he departed Seoul on June 5, 1975. In addition, he states he had no notice that better commercial bus service

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was made available on his return to Korea on July 23, 1975. He also states that his travel orders did not deny him the use of taxis and that this is the only time reimbursement of a taxi fare was questioned in his numerous trips to and from Korea from 1958 to 1977.

The Federal Travel Regulations (FPMR 101-7) (May 1973) provide at paragraph 1-2.3c as follows:

"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." (Underscoring supplied.)

In view of paragraph 1-2.3c and the 8th Army's regulations that commercial travel in Korea will be authorized only when Government transportation is not available, the sole question is whether such transportation was in fact available at the time Mr. Kisiolek performed the travel at issue. The fact that on other occasions Mr. Kisiolek may have been reimbursed taxi fares or that use of taxis was not prohibited on his travel orders has no impact on the propriety of reimbursing Mr. Kisiolek here under these regulations.

The Army's report advises that Government transportation was available between Yongsan and Osan AFB and it could have been used on the dates Mr. Kisiolek traveled. There is an obvious difference between the Army and Mr. Kisiolek as to whether " * * * suitable Government or common carrier transportation service * * * [was] available for all or part of the distance involved." In Matter of Position Classification, B-186760, June 3, 1977, we stated "In deciding claims this Office does not

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conduct adversary hearings. Rather, we operate on the basis of the written record presented to us by the parties. Where the record before this Office contains a dispute of fact which cannot be resolved without an adversary proceeding, it is our long-standing practice to resolve such disputes in favor of the Government. B-167782, January 21, 1970."

Accordingly, in view of the irreconcilable difference concerning the facts, the Army's version of the facts is accepted and the denial of Mr. Kisiolek's claim is affirmed.

Deputy


Comptroller General
of the United States

UNITED STATES GOVERNMENT

S. G. ...
GENERAL ACCOUNTING OFFICE

Memorandum

TO : Director, Claims Division

December 16, 1977

Deputy
FROM : Comptroller General *Bykitten*

SUBJECT: Joseph J. Kisiolek - Claim for Reimbursement
of Taxi Fares, Z-2620914 - B-190070-O.M.

Returned herewith is file Z-2620914 and a copy of our decision of today sustaining your disallowance of Joseph J. Kisiolek's claim for taxi fares.

Attachments