

6219
DECISION



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

FILE: B-189808

DATE: April 28, 1978

MATTER OF: Donald C. Schott - Reimbursement
of Travel and Relocation Expenses

- DIGEST:**
1. Employee who transferred from California to Georgia, was authorized travel by privately owned automobile. Employee, accompanied by dependent son, traveled circuitous route to Atlanta. Employee claims per diem for 7-1/2 days based on direct route mileage divided by 300 miles per day, minimum average daily travel requirement under FTR para. 2-2.3d. Employee's claim may be allowed, if otherwise proper, as applicable provisions of FTR have been interpreted as limiting reimbursement to expenses of travel by usually traveled route at specified distance per day.
 2. Employee traveled from Los Angeles to Atlanta by indirect route so that he was in travel status for 10 days. Based on direct route of 2,220 miles traveled at average rate of 300 miles per day as prescribed in FTR para. 2-2.3d(a) traveltime should have been 7-1/2 days. Employee may be charged annual leave for excess time consumed in travel by indirect route. An employee is required to proceed on official travel as expeditiously as if he were traveling on personal business. See 46 Comp. Gen. 425 (1966).
 3. Where employee was prevented from giving required 30-day notice for termination of occupancy of apartment at old duty station because agency notice to transfer required him to leave in less than 30 days, he may be reimbursed amount paid to landlord in lieu of notice.

B-189808

4. Transferred employee who was sent on temporary duty assignment after he had occupied temporary quarters at new duty station for 2 weeks, and who placed household goods in storage in anticipation of returning to temporary quarters in Atlanta upon completion of temporary duty assignment, may be reimbursed for the cost of such storage since it was incident to transfer.

This decision concerns the request of Mr. E. N. Young, Administrative Officer of the United States Department of Justice, Federal Prison Industries, Inc., Atlanta, Georgia, for an advance decision concerning a voucher submitted by Mr. Donald C. Schott, an employee of that agency, for reimbursement of travel and relocation expenses incurred incident to his transfer from Terminal Island, California, to Atlanta, Georgia.

The record shows that on December 14, 1976, Mr. Schott, by Travel Authorization No. 2PI-46-7, was authorized to travel by privately owned automobile, from Terminal Island to Atlanta. The authorization also provided for per diem for the employee and his dependents, and transportation of household effects. Mr. Schott's travel order did not specify that he would be required to travel any specific average number of miles per day.

Because of the transfer, the employee incurred additional expenses in settling an unexpired lease in Los Angeles. Then, rather than traveling by the direct route from Los Angeles to Atlanta, Mr. Schott, who was accompanied by his dependent son, traveled by privately owned automobile from his residence in Los Angeles to Atlanta via his son's former home in Plattsburg, New York. He states that he traveled to New York to pick up his son's personal property, including winter clothing, necessitated by the harsher winter climate at the new duty station.

Mr. Schott's travel by privately owned automobile covered a period of 10 days and 9 nights, January 3, 1977, through January 12, 1977. Mr. Schott is claiming subsistence expenses for 7-1/2 days, including 7 nights' lodging, based on the direct route between Los Angeles and Atlanta, approximately 2,220 miles, traveled at an average rate of 300 miles per day. Mr. Schott has not claimed per diem for the nonworkdays of January 8 and 9, 1977. The record also shows that Mr. Schott remained in Plattsburg, New York, on Sunday, January 9, and that he did not perform any travel on that day. Finally, he performed temporary duty at Butner, North Carolina, during his period of temporary lodging at Atlanta, and he seeks reimbursement of \$13.88 in storage charges for 600 pounds of personal property stored while he was on temporary duty.

The agency asks five questions as to the employee's entitlements based on the foregoing circumstances. Each question is addressed below.

1. Average Lodging Costs

Since Mr. Schott's travel involved 9 nights and he is claiming reimbursement for only 7 nights' lodgings, the agency asks whether, in calculating the average cost of lodgings, it should use 9 nights or 7 nights. In accordance with Federal Travel Regulations (FTR), FPMR 101-7, as amended by Temp. Reg. A-11, May 19, 1975, para. 1-7.3c, the average cost of lodgings is computed on the basis of "the number of nights for which lodgings were or would have been required while away from the official station." The correct answer here is 7 nights for reasons which are explained below in our answer to the second question.

2. Subsistence Allowance

The agency notes that Mr. Schott's lodgings receipts for the initial 5 days of his travel shows that he actually traveled at a rate greatly in excess of 300 miles each day. The agency states that on the basis of the average mileage per day which Mr. Schott actually traveled he would

B-189808

have arrived in Atlanta in 4-1/4 days if he had traveled by direct route between the Los Angeles area and Atlanta. Accordingly, the agency proposes that Mr. Schott's reimbursement for subsistence be restricted to that for 4-1/4 days.

Concerning entitlement to per diem when a privately owned automobile is used incident to a transfer FTR para. 2-2.3d(2) provides as follows:

"Maximum allowance based on total distance. Per diem allowances shall be paid on the basis of the actual time used to complete the trip, but the allowances may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day."

We have interpreted the substantially similar provisions of sections 2.2a and 2.3d(2) of Office of Management and Budget Circular No. A-56 which were in effect prior to the implementation of the FTR as limiting reimbursement for per diem and subsistence while traveling to a new station by privately owned automobile to the amount to which the employee and members of his family would have been entitled had they traveled by the usually traveled route between the old and new stations at the rate of travel specified in the governing regulations. B-169065, March 17, 1970, and B-114826, May 7, 1974. In these cases, employees had traveled less than the specified distance, and had concomitantly increased their claim for subsistence because of increased driving time. We believe that the principle involved--that the employee is required to travel a specified distance each day--also means that he may not be required, absent prior notification, to travel more than that distance each day. See also paragraph 1-7.5d of the FTR which states that per diem for travel by an indirect route may not exceed that which would have been incurred on uninterrupted travel by a usually traveled route.

B-189008

Here, the authorizing official did not prescribe a minimum driving distance per day. Therefore, we do not believe the above-cited regulations and cases provide a basis for limiting Mr. Schott's entitlement in the manner contemplated by the agency. Accordingly, Mr. Schott's reimbursement should be calculated on the basis of a distance of 300 miles per day. The application of paragraphs 1-7.5d and 2-2.3d of the FTR require that Mr. Schott be reimbursed for per diem for the 7-1/2 days which he claims. By applying the constructive route principle to these facts, it also becomes clear that the average cost of lodgings discussed above is to be based on the 7 nights of lodging which "would have been required" for travel by a direct route.

3. Excess Traveltime

The agency proposes to charge annual leave for the employee's excess traveltime. Our Office has held that in performing official travel an employee is required to proceed without delay as expeditiously as he would if traveling on personal business, even though he may be required to travel on nonworkdays. 46 Comp. Gen. 425 (1956). Based on the direct route between Los Angeles and Atlanta, approximately 2,220 miles, traveled at the average rate of 300 miles per day as prescribed in FTR para. 2-2.3d(a), Mr. Schott's traveltime should have been 7-1/2 days. The record shows that Mr. Schott was in travel status for a period of 10 days, from Monday, January 3, 1977, through Wednesday January 12, 1977, and that he reported for duty on Thursday, January 13. Accordingly, the agency may charge annual leave for 2-1/2 days for worktime missed as a result of his excess traveltime.

4. Expense of Breaking Lease

We are also asked whether Mr. Schott may be reimbursed under FTR para. 2-6.2h for the costs of settling an unexpired lease at his former residence in Los Angeles. Mr. Schott

B-189808

has claimed \$90 which represents the amount he was required to pay his landlord in lieu of providing 30 days' notice of termination of his tenancy. The agency states that it was impossible for Mr. Schott to provide 30 days' notice from the time he was notified of his transfer to the date of his departure. Therefore, the conditions precedent in the regulations appear to be met. Since Mr. Schott has submitted a signed receipt showing that the claimed expense was incurred, and stating that the payment was in lieu of notice, reimbursement may be allowed for the claimed amount of \$90.

5. Storage of Household Goods

The final question presented is whether Mr. Schott is entitled to reimbursement in the amount of \$13.88 for the temporary storage of household goods in the Atlanta area. The record shows that while Mr. Schott was occupying temporary quarters in the Atlanta area, after arriving at his new duty station, he was assigned to temporary duty in Butner, North Carolina, and that on January 17, 1977, he placed his household goods in temporary storage for approximately 40 days. Paragraph 2-8.5a of the FTR provides for reimbursement for temporary storage of household goods when such storage is incident to transportation of the household goods at Government expense.

Mr. Schott states that he had about 600 pounds of personal property that he transported from California to Georgia. He says that when he was temporarily assigned to duty in North Carolina he could not carry these goods with him and he put them into storage in anticipation of returning to temporary quarters after his return to Atlanta. Since Mr. Schott has been authorized reimbursement for the transportation of his household goods to Atlanta he may be reimbursed in the amount of \$13.88 for the temporary storage of those household goods.

Action should be taken on Mr. Schott's voucher in accordance with the above.

R. F. K. M.
Deputy Comptroller General
of the United States