

DECISION

~~DIGEST~~ - L - mil
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

41

FILE: B-191742

DATE: August 1, 1978

MATTER OF: HM1 Robert P. Hockensmith, USN
and HM2 Sybil L. Hockensmith, USN

DIGEST: Husband and wife, both Navy members, are each entitled to a dislocation allowance (DLA) (without dependents rate) upon permanent changes of station where at the old station the husband was assigned to quarters aboard a ship homeported at Pearl Harbor and the wife occupied quarters on land near Pearl Harbor, her duty station, and both were transferred to Long Beach, California, where they occupied non-Government quarters together. Although the husband stayed with his wife in her quarters when he was not required on board ship at the old duty station, the move involved transfer from a station where the members were assigned separate quarters and thus was not a move of a single household to preclude payment of two DLA's.

This action is in response to a letter from the Officer in Charge, Navy Finance Office, Long Beach, California (HGA:AD:4650/1 SER:532), requesting an advance decision concerning whether payments of dislocation allowances (DLA) may be made to both HM2 Sybil L. Hockensmith, USN, [REDACTED] and HM1 Robert P. Hockensmith, USN, [REDACTED] incident to permanent changes of station they received in June 1977. The request was assigned PDTATAC Control No. 78-16 and forwarded to this Office by the Per Diem, Travel and Transportation Allowance Committee.

HM1 Hockensmith and HM2 Hockensmith are husband and wife and both are members of the Navy. Mr. Hockensmith was assigned to a ship homeported at Pearl Harbor, Hawaii, and Mrs. Hockensmith was assigned to a shore activity at Pearl Harbor when in June 1977 they both received permanent change of station orders to a shore activity at Long Beach, California, where they were not assigned to Government quarters.

While she was assigned to Pearl Harbor, Mrs. Hockensmith did not occupy Government quarters and she received basic allowance

B-191742

for quarters (BAQ) at the without dependents rate. Mr. Hockensmith was assigned to quarters aboard the ship; however, because he had a dependent child born of a previous marriage for whom he was required to pay child support, he received BAQ at the with dependents rate. When his ship was in port, if he was not required to remain on board in a duty status, he occupied quarters with his wife.

Since both Mr. and Mrs. Hockensmith are members of the Navy entitled to basic pay, neither may claim the other as a dependent for purposes of receiving a DLA at the with dependents rate. 37 U.S.C. 420 (1970), and compare 53 Comp. Gen. 148, 153 (1973) (answer to question 3b). Mrs. Hockensmith has no other dependent and Mr. Hockensmith's child by his former marriage is not in his legal custody and control and, therefore, may not be claimed as a dependent for DLA purposes in this case. 51 Comp. Gen. 716 (1972). Thus, the primary question presented by this case is whether both members are entitled to a DLA at the without dependents rate, or whether only one member may receive a DLA at the without dependent rate. The question has arisen due to decisions of our Office and provisions of applicable regulations which indicate that when two members in the same household move to the same quarters at the new station, only one DLA may be paid.

Pursuant to 37 U.S.C. 407(a) (1970), under regulations prescribed by the Secretary concerned, a member without dependents, who is transferred to a permanent station where he is not assigned to quarters of the United States, is entitled to a DLA. The statutory regulations implementing 37 U.S.C. 407 are found in Volume 1, Joint Travel Regulations (1 JTR), chapter 9, paragraph M9008 of which applies in cases of transfers of members married to members. Rule 3 of the table set out in paragraph M9008 provides that in a case such as this when both members have no dependents and they occupied separate quarters at the old station and the same quarters at the new station, then DLA is payable to both at the without dependents rate.

In our decision at 56 Comp. Gen. 46, 50 (1976) in considering various questions concerning entitlement to DLA's in cases of members married to members, we stated in summary partly as follows:

B-191742

"* * * Generally, where a permanent change of station requires the disestablishment of a household in one place and a reestablishment of the household in another, a DLA is authorized, except for members without dependents who are assigned to Government quarters. The allowance is to be paid as provided by regulation; however, in no event may more than one DLA be paid where only one movement of a household is required. * * *"

In this case Mr. Hockensmith apparently occupied his wife's quarters with her when he was not at sea or not required to remain on his ship in port. However, the fact remains that he was assigned to quarters aboard ship due to his duty assignment and his wife occupied quarters on shore due to her duty assignment. In such a case we cannot say that because the home port of his ship and her shore duty assignment were the same, that when they were transferred one household moved. Instead, officially the transfer involved moves from two separate sets of quarters and in accordance with the provisions of 1 JTR, paragraph M9008, Rule 3, each member is entitled to DLA at the without dependent rate.

The voucher submitted is returned with payment being authorized on the above basis.

Deputy



Comptroller General
of the United States