

7355
DECISION



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

FILE: B-190202

DATE: August 14, 1979

MATTER OF: Edward B. Connors - Relocation Expenses of
Scarce Category Employee

DIGEST: Scarce category employee was authorized transportation of his immediate family and housetrailer from Red Bluff, California, to Pocatello, Idaho, incident to appointment effective January 20, 1975. Authorized transportation did not begin for 26 months since employee wanted family to remain in California until AGE discrimination complaint filed by him after unsuccessful application for position in Oregon was settled. Employee may not be reimbursed costs of transportation of immediate family and household goods since 2-year limitation on beginning of transportation prescribed in Federal Travel Regulations (FPMR 101-7) para. 2-15a(2) (May 1973) may not be waived.

This action is taken pursuant to a request from Mr. H. Larry Jordan, Head, Certification Section, National Finance Center, U. S. Department of Agriculture, for our decision as to whether he may certify for payment a claim of Mr. Edward B. Connors, an employee of the Department, for transportation of his immediate family and household goods to his official duty station.

Mr. Connors, a new scarce category employee of the Forest Service, was authorized transportation of his immediate family and housetrailer from Red Bluff, California, to Pocatello, Idaho, incident to his appointment effective January 20, 1975. Federal Travel Regulations (FTR) (FPMR 101-7) para. 2-1.5a(2) (May 1973) states in pertinent part, "The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment * * *." Mr. Connors did not transport his family and household goods to Pocatello until March 2 and 3, 1977, some 26 months after he had reported for duty. During the 26-month interim period Mr. Connors applied for a job in Medford, Oregon, but was not hired. He filed an equal employment opportunity (EEO) complaint and a grievance against the hiring agency, charging age discrimination and improper selection practices, and decided not to move his family from California until his EEO complaint had been resolved. Because of delays a determination of the validity of his complaint and grievance was not made until after the 2-year period allowed under FTR para.

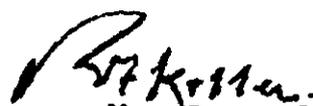
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2-1.5a(2) for beginning transportation of his immediate family and household goods had passed. Mr. Connors was told by the negotiator who handled his complaint that he would try to get an extension of the 2-year limitation. While his claim was administratively disallowed, the matter has been forwarded here because of the negotiator's promise.

Mr. Connors states in his appeal to the Fiscal and Accounting Director of the Forest Service that he realizes that his moving costs "cannot qualify for payment under the normal rules and regulations." However, he believes that, because the determination in his favor was delayed through no fault on his part, an exception to the requirement of the Federal Travel Regulations should be made in his case on moral and equitable grounds. Unfortunately, the Federal Travel Regulations are statutory regulations and the time limitations therein may not be waived in an individual case. See 29 Comp. Gen. 145 (1969); B-178234, June 18, 1974; and B-181360, January 22, 1975. Further, the General Accounting Office cannot grant relief on an equitable basis in the absence of a specific statutory grant of equitable jurisdiction. 54 Comp. Gen. 527 (1974); B-186975, March 16, 1977; and B-189577, November 2, 1977. Accordingly, there is no authority to allow Mr. Connors' claim for transportation expenses incurred after the time limitation in FTR para. 2-1.5a(2).

We have also been asked whether Mr. Connors' claim is invalidated by the fact that he moved household goods by U-Haul truck instead of moving a house trailer, as authorized. Since Mr. Connors' claim cannot be allowed in any event because the expenses were incurred after the time limit in the FTR, no reply to this question is necessary.

In view of the above Mr. Connors' voucher claiming reimbursement for transportation of his immediate family and household goods may not be certified for payment.


Deputy Comptroller General
of the United States