

**DECISION**



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

*H. Volpe  
P.L.I.*

**9021**

FILE: B-192199

DATE: January 31, 1979

MATTER OF: Paul Peter Woronecki -- [Travel and  
Relocation Expenses]

- DIGEST:
1. Employee, who completed overseas assignment with Agency for International Development, was transferred to United States by Interior. Entitlement to travel and relocation expenses is determined under 5 U.S.C. §§ 5724 and 5724a (1970) and Federal Travel Regulations.
  2. Employee who completed overseas assignment was transferred to new duty station in United States. Employee may not be transferred first to former U.S. duty station where he is not expected to remain for extended period of time. B-172594, March 27, 1974. Amended travel orders which authorized such transfer are without legal effect.
  3. Employee, who is transferred from overseas duty station to United States, may not be authorized reimbursement for house-hunting trip or real estate expenses. Travel and transportation expenses are limited to cost by usually traveled route. In addition, reimbursement for temporary quarters subsistence expenses is limited to period of 30 days. See 5 U.S.C. § 5724a and Federal Travel Regulations.
  4. Employee who returns from overseas assignment is not entitled to home leave where it is not contemplated he will return overseas. See 5 C.F.R. § 630.606. Furthermore, excess traveltime due to indirect route or travel for personal convenience should be charged to annual leave. See 56 Comp. Gen. 865 (1977).

This action is in response to the request from John E. O'Grady, an authorized certifying officer of the Fish and Wildlife Service, United States Department of the

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Interior, reference DSC:FMS 4-1.3, for an advance decision concerning the claim of Mr. Paul Peter Woronecki, a Fish and Wildlife Service employee, for travel and relocation expenses incident to his transfer from Cali, Colombia, to Sandusky, Ohio. Several questions have been presented concerning the employee's authorized travel, his actual travel, and the travel expenses he has claimed, the latter being based in part on constructive travel.

The record indicates that Mr. Woronecki was completing an overseas assignment with the Agency for International Development (AID) in Cali, Colombia, when he was notified in May 1975, of his transfer to the Patuxent Wildlife Research Center field office in Sandusky, Ohio. Mr. Woronecki was authorized travel and transportation by the Fish and Wildlife Service for himself and his family from Cali to Sandusky, with an authorized stop at the Patuxent Wildlife Research Center in Laurel, Maryland. The authorized period of travel was to begin on or about June 26 and end on or about June 30, 1975. Mr. Woronecki and his family departed from Cali on June 27, 1975, but, after a layover in Miami, Florida, they proceeded to Hartford, Connecticut, to visit with relatives. On July 16, 1975, Mr. Woronecki and his spouse flew from Hartford to Denver, Colorado; the employee spent 2 days at the Denver Wildlife Research Center; and then the employee and his spouse drove to Sandusky, Ohio, arriving July 20, 1975. On July 23, 1975, Mr. Woronecki and his spouse drove to Hartford and later returned to Sandusky, with their family on August 1, 1975.

The Fish and Wildlife Service finance office allowed Mr. Woronecki only the cost of a direct airline flight from Cali, Colombia, to Cleveland, Ohio, along with luggage transfers, taxi fares, and per diem incident to direct travel from Cali, Colombia, to Sandusky, Ohio, with a connection in Miami, Florida. The finance office also allowed temporary quarters allowance for 7 days in Colombia and 23 days in Ohio as well as \$200 for miscellaneous expenses in connection with the transfer.

For reasons which are not entirely clear from the record before our Office, the Fish and Wildlife Service issued an amended travel authorization to Mr. Woronecki after the

voucher was paid authorizing travel from Cali, Colombia, to Davis, California, the latter being Mr. Woronecki's former duty station prior to his overseas assignment. The amended travel orders also authorized Mr. Woronecki to travel from Davis, California, to Sandusky, Ohio, with authorized stops at the Denver and Patuxent Wildlife Research Centers in Denver, Colorado, and Laurel, Maryland, respectively.

Mr. Woronecki has submitted a reclaim voucher for \$2069.27 based on his actual costs which he states are less than the constructive costs he has computed. For actual travel expenses the employee has claimed the additional air fare to Hartford, Connecticut, and Denver, Colorado, and additional per diem, luggage transfer costs, and taxi fares in connection with his travel to Hartford, Connecticut. Mr. Woronecki has also claimed mileage, per diem, and other expenses in connection with his travel and that of his spouse from Hartford to Denver and back to Hartford via Sandusky. Finally, the employee claims mileage, per diem, and other expenses for the trip from Hartford to Sandusky with his family, additional temporary quarters allowance, and additional miscellaneous allowances and expenses.

The constructive travel expenses which Mr. Woronecki has computed in the amount of \$3028.34 include air fare, per diem, and other expenses from Cali, Colombia, to Dixon, California, and mileage and per diem from Dixon, California, to Sandusky, Ohio, via Denver, Colorado. In addition, Mr. Woronecki has computed his constructive travel costs for air travel from Cali, Colombia to Sandusky, Ohio, via California along with a constructive house-hunting trip from Davis, California, to Sandusky, Ohio.

The report from the certifying officer raises a number of questions to be resolved by our Office. The agency questions the employee's entitlement to home leave and to a transfer back to his former duty station in California. The agency also questions the propriety of retroactively amending travel orders which results in an increase in the employee's entitlement to travel expenses.

The record before us indicates that Mr. Woronecki was authorized travel and transportation expenses under the

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Administrative Expenses Act of 1946, as amended, which is codified in 5 U.S.C. §§ 5724 and 5724a (1970). This action appears to be correct since we have been informally advised that Mr. Woronecki did not receive a Foreign Service appointment while serving with AID which would have excluded him from coverage under these provisions. See 5 U.S.C. § 5724(g). Thus, Mr. Woronecki's entitlements are to be determined with reference to the above-cited statutes and the implementing regulations contained in the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973).

With regard to the question of Mr. Woronecki's transfer directly to Sandusky, Ohio, or by way of Davis, California, we point out that our Office has held that an employee may not properly be transferred to a place at which he is not expected to remain for an extended period of time for the purpose of increasing his entitlement to travel, transportation and relocation expenses. B-172594, March 27, 1974; and B-166181, April 1, 1969. There is no indication in the record before us that transferring Mr. Woronecki to his former duty station in Davis, California, would be for any official purpose of the agency. In fact, the record indicates that there was no position at Mr. Woronecki's former duty station to which he could have returned, and he never traveled to that point. Therefore, in the absence of any entitlement of the employee to return to his former duty station after overseas assignment, we conclude that the agency properly reassigned Mr. Woronecki by transferring him directly from Cali, Colombia, to Sandusky, Ohio.

With regard to the retroactive modification of travel orders by the agency, we would point out that the legal rights and liabilities in regard to travel and relocation allowances vest at the time the travel is performed under the travel orders, and such orders may not be revoked or modified retroactively so as to increase or decrease an employee's rights which have become fixed under the applicable regulations. See Philip E. Schaeffer, B-186684, February 2, 1977. Our decisions have held that an exception may be made only when an error is apparent on the face of the orders and all facts and circumstances demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence.

See Schaeffer, supra; and B-175433, April 27, 1972. We do not believe that the circumstances of this case qualify for an exception under the above-cited rule, and, therefore, we conclude that the retroactive amendment to Mr. Woronecki's travel orders is without legal effect. Therefore, his entitlement to relocation expenses shall be determined based upon the original travel authorization.

With regard to Mr. Woronecki's actual travel from Cali, Colombia, to Sandusky, Ohio, we note that Mr. Woronecki traveled by a circuitous route to his new duty station. We concur with the agency's action in limiting Mr. Woronecki's claim for subsistence and transportation between the old and new duty stations to the constructive cost by the usually traveled route between the duty stations. See FTR paras. 2-2.1 and 2-2.2. In addition, Mr. Woronecki is not entitled to reimbursement for a house-hunting trip nor real estate expenses since under the law entitlement to such expenses is predicated upon both the old and new duty stations being located within the United States or its territories or possessions. See 5 U.S.C. § 5724a (a)(2) and (4).

The employee's entitlement to subsistence expenses while occupying temporary quarters is based upon the provisions of 5 U.S.C. § 5724a(a)(3) and FTR chapter 2, Part 5. Reimbursement for temporary quarters is limited to a period of 30 days except when the employee is moving to or from Hawaii, Alaska, or territories or possessions of the United States. Since Mr. Woronecki transferred from a foreign duty post, he is not entitled to more than 30 days temporary quarters. The record before us is not clear as to whether Mr. Woronecki was entitled to quarters allowance under the provisions of 5 U.S.C. § 5923. The certifying officer should determine the employee's entitlement to temporary lodging allowance prior to his departure from the foreign duty post.

The report from the agency indicates that Mr. Woronecki may have thought he was entitled to home leave following his transfer back to the United States. However, under the provisions of 5 U.S.C. § 6305 and 5 C.F.R. Part 630, Subpart F, home leave may be granted only when it is

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contemplated that the employee will return to service abroad immediately or upon completion of an assignment in the United States. See 5 C.F.R. § 630.606(c)(2). There is no indication in the record before us that Mr. Woronecki would return to an overseas post after an assignment in the United States, and, therefore, we conclude that the employee is not entitled to home leave.

We held in 56 Comp. Gen. 865, at 868 (1977), that an employee should be charged leave for his absence from his official duties where such absence is due to excess travel time necessitated by indirect travel or travel for personal convenience. The record shows that after leaving Cali, Mr. Woronecki's new duty station was Sandusky. Therefore, any travel time in excess of what he would be authorized for direct travel between Cali and Sandusky should be charged to annual leave.

Accordingly, action may be taken on the voucher consistent with the above discussion.

  
Deputy Comptroller General  
of the United States