



**DECISION**

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

10,111

FILE: B-194270

DATE: May 9, 1979

MATTER OF: Clayton Jennings - Relocation Expenses  
New appointee *FOCS*

*Claim by*

DIGEST: Even though new appointee in manpower shortage category was given incorrect information regarding his entitlement to miscellaneous expenses and temporary quarters allowance and his written authorization for moving expenses reflected that information, his claim must be denied since regulations specifically prohibit payment of those allowances. The United States is not liable for the erroneous actions of its officers, agents or employees even though committed in the performance of their duties.

*PN*

*DLG00554*

This is in response to a *request* from Elizabeth A. Allen, Chief, Accounting Section, Office of the Regional Commissioner, Southwest Region, Internal Revenue Service, concerning the claim of Clayton Jennings for reimbursement of certain expenses he incurred incident to his move from Colorado Springs, Colorado to his first post of duty in Houston, Texas. Mr. Jennings was hired as a mining engineer, a position in a manpower shortage category, and reported for duty on September 11, 1978.

Generally, new appointees are not entitled to relocation expenses. See paragraph 2-1.5e of the Federal Travel Regulations (FTR) FPMR 101-7, May 1973. However, FTR para. 2-1.5f provides an exception for new appointees to positions for which a manpower shortage is designated by the U.S. Civil Service Commission (now Office of Personnel Management). Such appointees are not entitled to all relocation expenses. FTR paragraph 2-1.5f(4) specifically prohibits reimbursement to a shortage-category appointee of per diem for family, cost of a house-hunting trip, subsistence while occupying temporary quarters, miscellaneous expense allowance, residence sale and purchase expenses, and lease breaking expenses.

Before Mr. Jennings accepted employment with IRS he was told by an IRS official that he would be reimbursed for miscellaneous moving expenses and that he would receive a temporary quarters allowance. These items were authorized on Mr. Jennings's. Authorization for Moving Expenses, TD Form 4253, which was signed by the authorizing

*005244*

B-194270

officer on September 11, 1978. On that form Mr. Jennings was also authorized mileage to his post of duty at the rate of 17¢ per mile. His claim for reimbursement of these expenses is based on the oral and written authorizations that he received and his reliance on those authorizations in incurring expenses.

While it is unfortunate that Mr. Jennings was given incorrect information during discussions concerning his employment and on his Authorization for Moving Expenses, the Government may not pay those expenses to which he was not entitled under the law and regulations. Even where a person has been given erroneous information about his transportation entitlements, his rights are determined on the basis of the facts in the matter rather than on the information provided. B-193353, February 9, 1979; B-189358, February 8, 1978. In the absence of specific authority, the United States is not liable for the erroneous actions of its officers, agents or employees, even though committed in the performance of their official duties. 44 Comp. Gen. 337 (1964).

In light of FTR paragraph 2-1.5f(4), Mr. Jennings is not entitled to reimbursement for miscellaneous moving expenses nor is he entitled to a temporary quarters allowance. In addition, FTR paragraph 2-2.3(b), Supplement 4 (1977), provides that the mileage rate shall be 8¢ when the employee only or one member of his immediate family occupy the car. Since there is no indication that anyone other than Mr. Jennings traveled to Houston, his reimbursement is limited to 8¢ per mile.

The reclaim voucher must be disallowed.

A handwritten signature in black ink, appearing to read 'J. K. ...', is written above the typed name.  
Deputy Comptroller General  
of the United States