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Phm-11
Mr. Mosher

DECISION



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

FILE: B-195808

DATE: April 7, 1980

MATTER OF: Hugh W. Arant

DIGEST: Upon change of permanent station employee was authorized shipment of household goods and filed claim based on the commuted rate. Change in commuted rate had occurred before shipment but had not been communicated to the employee or to the responsible officials at his old duty station who quoted a higher commuted rate previously in effect. No basis exists for allowance of higher commuted rate for shipment of household goods after the effective date of lower rate.

The issue presented in this case upon an appeal of a settlement of our Claims Division is whether an employee who arranges shipment of household goods after receiving erroneous advice that the commuted rate was higher than the rate then in effect may be paid the higher rate. The answer is no.

Mr. Hugh W. Arant, a civilian employee of the Department of the Air Force, was authorized to perform travel on a permanent change of station (PCS) from Kelly Air Force Base, Texas, to Wright-Patterson Air Force Base, Ohio, by orders dated December 15, 1977. His reporting date at his new station was January 16, 1978. Shipment of household goods was begun on January 3, 1978. Before departing the old station Mr. Arant was told by the Finance Officer that the commuted rate for shipment of household goods was \$21.90 per hundred pounds plus 30 cents additional allowance for the local metropolitan destination area for a total of \$22.20. Based upon this information he made arrangements with Aero Mayflower Transit Co. to ship his household goods. When Mr. Arant filed his claim for reimbursement he was informed that a lower rate than that quoted by the Finance Officer at the old station had been in effect at the time of shipment and he was reimbursed at the lower rate. Mr. Arant submitted a claim for the difference since the higher figure was quoted to him before shipment was made. It also appears that the lower rate schedule had not been sent to Kelly AFB officials at the time the Finance Officer there had quoted the higher rate to Mr. Arant.

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The rates in effect at the time shipment was made were established by GSA Bulletin FPMR A-2 General, Supplemental 70 to Joint Travel Regulations, Volume 2 (2 JTR), dated November 3, 1977, which applied to transportation of household goods begun on or after November 1, 1977. In a letter dated May 11, 1979, from the GSA addressed to Mr. Arant it was stated that four copies of Supplemental 70 to GSA Bulletin FPMR A-2, Commuted Rate Schedule for Transportation of Household Goods were mailed to the Per Diem, Travel and Transportation Allowance Committee of the Department of Defense on December 1, 1977. That letter further states that the Per Diem Committee arranged for printing and general distribution within the Defense Establishment. Each service then made its own distribution.

Paragraph C8001-6, 2 JTR, provides that reimbursement under the commuted rate system is allowed in accordance with the General Services Administration Commuted Rate Schedule in effect on the date the common carrier picks up the household goods.

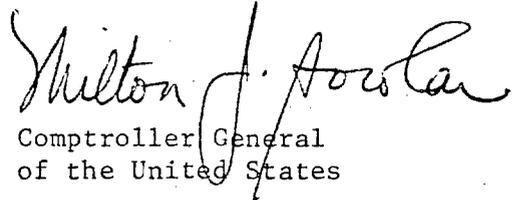
We have followed the general rule that amendatory regulations have the force and effect of law and are applicable from the stated effective date. In applying this rule to regulations changing per diem rates we have held that the rule is applicable not only to cases where the individual employee has not received notice of the increase or decrease in rate, but also to cases in which the installation responsible for the employee's temporary duty assignment is not on actual notice of the amendment. 56 Comp. Gen. 425 (1977); B-183633, June 10, 1975; and B-173927, October 27, 1971.

It is our view that the rule applied as to the effective dates of changes in per diem rates is for application as to the effective dates of the commuted rates for shipment of household goods as established by GSA. In the present case, the change in rates occurred 45 days before the date of Mr. Arant's orders; they were distributed by GSA to the Department of Defense 15 days before the date of Mr. Arant's orders and over a month before the household goods were picked up for shipment. It is unfortunate that the new rates were not available at Kelly AFB when Mr. Arant was erroneously advised of the higher rate. However, the erroneous advice does not furnish a basis for allowance of the claim which is not authorized by the rate established pursuant to law, 5 U.S.C. 5724(c) (1976). The Government's liability may not be increased over the rate

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effective at time of shipment. Neither could the Government's liability have been reduced had the rates gone up instead of down in similar circumstances.

Accordingly, the Claims Division's disallowance of Mr. Arant's claim is sustained.

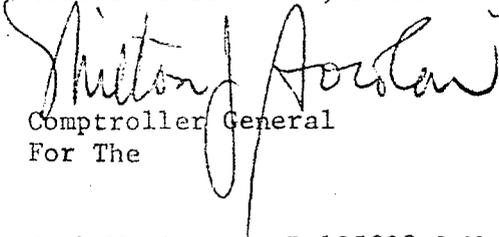
A handwritten signature in cursive script, reading "Milton J. Fowler".

For The Comptroller General
of the United States

Memorandum

April 7, 1980

TO : Associate Director, FGMSD - Claims Group (Room 5858)

FROM : 
Comptroller General
For The

SUBJECT: Hugh W. Arant - B-195808-O.M.

Returned herewith is claim file Z-2804861 together with a copy of our decision of this date in which we sustained the Claims Division's action denying Mr. Arant's claim for reimbursement for additional expenses for shipment of household goods.

Attachments - 2