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PLM I

DECISION



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

[Request for Reimbursement of]

FILE: B-197950

DATE: September 30, 1980

MATTER OF: Norman E. Holly -- Attorney Fees]

- DIGEST:
1. Claim for attorney's fee for services rendered in connection with obtaining a continuance in employee's divorce proceedings due to temporary duty assignment in Egypt denied. There is no Government interest at stake in such a proceeding, and the proceeding does not concern actions within the scope of the employee's official duties. See Comp. Gen. cites.
 2. Claim for attorney's fee for services rendered in connection with obtaining a continuance in employee's divorce proceedings due to temporary duty assignment in Egypt denied. There are no provisions which generally authorize reimbursement of personal expenses incurred as a result of a temporary duty assignment. The fact that an employee or his family would not have had the occasion to incur a personal expense but for the performance of official travel is not a sufficient basis for shifting such an expense to the Government. See Comp. Gen. cites.

Mr. Norman E. Holly seeks reimbursement for a \$175 attorney fee for services rendered in connection with obtaining a continuance in his divorce proceedings. The continuance was necessary because the agency assigned Mr. Holly to temporary duty in Egypt on the date on which his trial had been scheduled. His claim is denied.

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By settlement dated October 15, 1979, our Claims Division denied the claim of Mr. Holly for reimbursement of attorney fees on the grounds that the court proceedings did not involve the agency or Mr. Holly's official responsibility as an agency employee. Mr. Holly seeks reconsideration of that settlement. He points out that he did not request the assignment and that the agency had been aware of his scheduled trial date. He emphasizes the fact that the agency wrote a letter to his attorney explaining and confirming the need to obtain a continuance since Mr. Holly's assignment in Egypt was of considerable concern to the agency, and could not be postponed or assigned to another employee.

Generally, the hiring of an attorney is a matter between the attorney and his client, and absent express statutory authority, reimbursement of attorneys fees may not be allowed. Reimbursement has been allowed only in limited circumstances and only when the proceedings arose out of actions which are within the scope of the employee's official duties, and the interest of the United States is at stake along with the personal interest of the employee. See generally, 55 Comp. Gen. 408 (1975); Manzano and Marston, 55 id. 1418 (1976); Ellen V. Damareck, B-195314, June 23, 1980, and cases discussed therein.

Divorce proceedings do not concern actions which are within the scope of Mr. Holly's employment and there is no Government interest to be protected in such a proceeding. Accordingly, this expense cannot be reimbursed as attorneys fees.

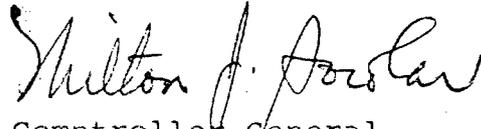
We are aware of no other authority which would provide a basis for payment. There are no statutory or regulatory provisions which generally authorize reimbursement of personal expenses incurred as a result of a temporary duty assignment. The fact that an employee or his family would not have had the occasion to incur a personal expense but for the performance of official travel is not a sufficient basis for shifting such an expense to the Government. See, for example, 41 Comp. Gen. 573 (1962) (reimbursement of travel expenses from

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temporary duty location to permanent duty station due to death of infant son denied); B-162466, September 27, 1967 (reimbursement of child care expenses incurred due to temporary duty assignment denied); B-176721, November 9, 1972 (reimbursement of forfeited deposit on vacation site because of cancellation of approved leave denied); Paul P. Magallanes, B-190646, January 25, 1978, and Delbert C. Nahm, B-191588, January 2, 1979 (reimbursement of certain travel expenses incident to interruption of vacation travel for official duty denied).

As provided in paragraph 1-1.3(b), Federal Travel Regulations (FPMR 101-7) (May 1973), only those expenses essential to the transaction of official business may be reimbursed. To the same effect, see 6 Foreign Affairs Manual (FAM) 114, (August 14, 1973), and 6 FAM 142.2 (March 28, 1978).

In view of the above, the settlement of our Claims Division is sustained and Mr. Holly's claim for reimbursement is denied.



For the Comptroller General
of the United States