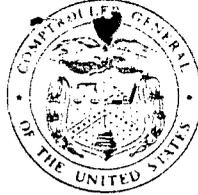


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DECISION



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

[Claim For Expenses Incurred in]

FILE: B-200377

DATE: December 31, 1980

MATTER OF: Kalman Pater, Jr., - Shipment of household goods

DIGEST: Employee had his household goods transported by private independent trucker with 40-foot freight hauling trailer for which employee paid \$1,610 in cash. Employee submitted notarized statement of trucker attesting to shipment and also trucker's receipt for cash payment. In accordance with applicable provisions of the Federal Travel Regulations evidence submitted is not sufficient to establish constructive weight of goods for reimbursement on commuted rate basis, nor does it establish estimated weight approximating actual weight for reimbursement of actual expenses incurred.

W. K. Dulin, (an authorized certifying officer at the Morgantown Energy Technology Center (METC), Department of Energy, (has requested an opinion on the claim) of Mr. Kalman Pater, Jr. (for expenses incurred in shipping his household goods.) On the basis of the record before us, and pursuant to the following analysis, we are denying Mr. Pater's claim.

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Briefly, Mr. Pater moved his family and household belongings from Wayne, Pennsylvania, to Morgantown, West Virginia, on Memorial Day, 1977, reporting for duty at METC on June 6, 1977. (Mr. Pater was moved by a private independent trucker with a 40-foot freight hauling trailer who presented Mr. Pater with a written receipt (for \$1,610,) after receiving a cash payment from him.)

(Mr. Pater's claim for reimbursement for transfer expenses was submitted to the Certifying Officer at the Oak Ridge Operations Office (and partial payment was made for the employee and his family's move. However, (payment for shipment of the household goods was denied pending the outcome of our decision in

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Challis Broughton, B-193133, April 24, 1979, which appeared to be similar in nature to Mr. Pater's move. Based on our final decision in the above mentioned case, Oak Ridge felt that it could not justifiably reimburse Mr. Pater for the shipment of his household goods. Therefore, the claim was returned to METC unpaid.

In our initial decision in the Broughton case, dated April 24, 1979, we determined that insufficient documentation had been presented concerning weights of the household goods transported by Mr. Broughton to support payment under the commuted-rate system. Further, no information had been presented which could be used to justify payment of the commuted rate based upon the constructive weight. In lieu of the commuted rate we authorized the payment of actual expenses to the extent that actual expenses had been shown by the claimant. In our reconsideration of the Broughton case, B-193133, August 13, 1979, we concluded in part that, pursuant to paragraph 2-8.2b(4), and 2-8.3a(3) of the Federal Travel Regulations (FPMR 101-7) (FTR), where evidence to support a claim for shipping household effects does not establish the cubic feet of properly loaded van space, the employee is not entitled to reimbursement at the commuted rate but may be reimbursed actual expenses incurred if evidence submitted reasonably supports the shipment of the claimed weight of household goods. Thus, in affirming our initial decision, we held that although the evidence submitted was sufficient to permit reimbursement to Mr. Broughton of the actual expenses he incurred in moving his household goods himself, it did not support payment at the commuted rate.

The transportation of household goods is governed by the Federal Travel Regulations (FPMR 101-7) (FTR). Paragraph 2-8.3a(3), which sets out the requirements for the documentation relating to shipments of household goods, provides that:

"(3) Documentation. Claims for reimbursement under the commuted rate system shall be supported by a receipted copy of the bill of lading (a reproduced copy may be accepted) including any attached

weight certificate copies if such a bill was issued. If no bill of lading was involved, other evidence showing points of origin and destination and the weight of the goods must be submitted. Employees who transport their own household goods are cautioned to establish the weight of such goods by obtaining proper weight certificates showing gross weight (weight of vehicle and goods) and tare weight (weight of vehicle alone) because compliance with the requirements for payment at commuted rates on the basis of constructive weight (2-8.2b(4)) usually is not possible."

The constructive weight system described in paragraph 2-8.2b(4) provides that:

"(4) Constructive weight. If no adequate scale is available at point of origin, at any point en route, or at destination, a constructive weight, based on 7 pounds per cubic foot of properly loaded van space, may be used. Such constructive weight also may be used for a part-load when its weight could not be obtained at origin, en route, or at destination, without first unloading it or other part-loads being carried in the same vehicle, or when the household goods are not weighed because the carrier's charges for a local or metropolitan area move are properly computed on a basis other than the weight or volume of the shipment (as when payment is based on an hourly rate and the distance involved). However, in such instances the employee should obtain a statement from the carrier showing the amount of properly loaded van space required for the shipment. (See also 2-8.3a(3) with respect to proof of entitlement to a commuted rate payment when net weight cannot be shown.)"

In accordance with this authority, and as we indicated in the Broughton case, where an employee has failed to obtain the actual weight of his household goods at the time of transportation, he may be paid at the commuted rate only if he is able to show the amount of

space occupied by his goods and that the goods were properly loaded in the space available. In establishing the amount of space which would have been occupied by his effects if properly loaded, the employee may submit a list of items transported together with the volume occupied by each based on actual measurement or a uniform table, preferably prepared by a commercial carrier. 48 Comp. Gen. 115 (1968).

Further, if the employee is unable to establish his entitlement to a commuted payment by complying with the requirements listed above, he may be reimbursed the actual expenses incurred in the transportation of his household goods upon complying with the rule set forth in 38 Comp. Gen. 554, 555 (1959) as follows:

"When, however, as here, the evidence available affords a basis for concluding that the actual weight of the goods shipped reasonably approximates the estimated weight, the employee may be reimbursed for his actual expenses to the extent they do not exceed the amount which would have been payable for such estimated weight at the applicable commuted rates."

However, the evidence available must afford a basis for concluding that the actual weight of the goods shipped reasonably approximates the estimated weight. See James G. Bristol, B-185626, July 1, 1976, and decisions cited therein. The clear distinction between the Broughton case and Mr. Pater's claim is that in the present case there is no sufficient evidence of estimated weight to apply to the legal formulation set out above. As a result, since reimbursement on a commuted rate basis may not be allowed absent proper evidence of the weight or volume of the goods transported such as will satisfy the law and regulations, the voucher may not be paid on a commuted rate basis. And, because the evidence which Mr. Pater has presented does not establish the estimated weight of his shipment, let alone substantiate the accuracy of such estimated weight, the voucher may not be paid on an actual expense basis.

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Accordingly, based on the record before us the
voucher may not be paid.

A handwritten signature in cursive script, reading "Milton J. Fowler". The signature is written in dark ink and is positioned above the typed name.

Acting Comptroller General
of the United States