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DECISION



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

21145

FILE: B-205097

DATE: March 15, 1982

MATTER OF: Gunnery Sergeant Murray T. Stuart, USMC

DIGEST: A service member's wife, who herself was a service member, was discharged from active duty and elected and was paid travel and transportation allowances to her home of record, but she chose to remain for a short time at hers and the member's residence near the member's permanent duty station. Thereafter she chose to establish a residence away from the member's permanent duty station in order to pursue a college education. Since the separation from the member was not enforced, by the member's duty, but was for personal reasons, the member is not entitled to Family Separation Allowance as a result of this separation.

This is in response to a request for an advance decision concerning the propriety of crediting the pay account of Sergeant Murray T. Stuart, USMC, with a Type II Family Separation Allowance. This request was submitted by the Disbursing Officer, 2d Force Service Support Group (REIN), Fleet Marine Force, Atlantic, Camp LeJeune, North Carolina, and has been assigned control number DO-MC-1372 by the Department of Defense Military Pay and Allowance Committee. Because Sergeant Stuart and his wife are separated for personal reasons rather than because of his military assignment, the allowance may not be paid.

Gunnery Sergeant Murray T. Stuart resided with his wife, Sergeant M. C. Stuart, USMC, in the vicinity of their permanent duty station at Camp LeJeune, North Carolina. On December 21, 1980, Sergeant M. C. Stuart was released from active duty and in accordance with paragraph M4157 of the Joint Travel Regulations, elected and was paid travel and transportation allowances to her home of record at St. Louis, Missouri. Thereafter, on January 5, 1981, Mrs. Stuart traveled to Alexandria, Virginia, and established a residence for the purpose of completing degree requirements at the University of Maryland.

Sergeant Stuart contends that Mrs. Stuart should now be considered his dependent, and since she is not

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authorized transportation at Government expense from Alexandria to Camp LeJeune, under paragraph 30304a(1) of the Department of Defense Military Pay and Allowances Entitlements Manual he is entitled to Family Separation Allowance, Type II.

Section 427(b), title 37, United States Code, which authorizes Family Separation Allowances, and which is implemented by paragraph 30304 of the Pay and Allowances Entitlements Manual, provides in part:

"* * * a member of a uniformed service with dependents * * * is entitled to a monthly allowance equal to \$30 if--

"(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station * * *."

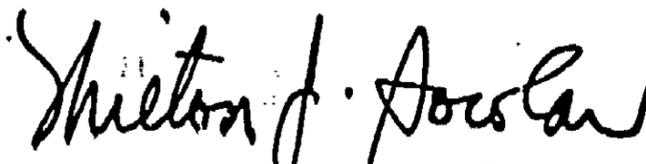
In construing this provision we said that the legislative history shows that the purpose of the legislation is to compensate a service member for the added household expenses that arise by reason of his enforced separation from his dependents as a result of his military duty assignment. 49 Comp. Gen. 867, 870 (1970). Consequently, we have consistently held that where the separation was not caused by the military duties of the member, but was effected for personal reasons, the separation may not be considered as enforced so as to authorize payment of the allowance. B-193532, October 15, 1980.

Under the facts presented, the separation which occurred here was not the result of the member's duties. Sergeant Stuart and his wife resided together at his permanent duty station while she was still a service member, and continued to do so for a short time after she was discharged. While it is true that Mrs. Stuart received travel and transportation allowances to her home of record, she was not required to return there, and in fact did not do so. Instead, she chose, for personal reasons, to take up residence in Virginia.

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Under these circumstances we cannot say the separation here was enforced by Sergeant Stuart's military duty assignment.

Accordingly, the Family Separation Allowance may not be paid.

for 
Comptroller General
of the United States