

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

23986

FILE: B-208815

DATE: January 10, 1983

MATTER OF: Major Charles E. Smith, USAF

DIGEST:

An Air Force member who was required to vacate family type Government quarters because his dependent departed the quarters permanently to accept employment some distance away is not entitled to be reimbursed moving expenses he incurred when he personally moved his household goods to the place where his dependent was working. In the absence of permanent change of station or retirement orders, the member could only be reimbursed expenses if the move was ordered due to some unusual situation related to military necessity.

Major Charles E. Smith, USAF, appeals the denial of his claim for reimbursement of the cost of transporting his household goods from Government quarters in Alexandria, Louisiana, to private quarters in Tyler, Texas. Since his move was not incident to a permanent change of station and was not brought about by conditions of a general nature related to military operations or needs, he has no entitlement to be reimbursed his cost by the Government.

Prior to December of 1980, Major Smith was residing in Government family quarters with his wife at his permanent duty station at England Air Force Base, Alexandria, Louisiana. During December of 1980 his wife permanently vacated the quarters apparently to accept employment in Tyler, Texas, some 240 miles away. As required by Air Force regulation, Major Smith informed the base housing office of his dependent's departure and of his plans to vacate the Government quarters. Therefore, on January 21, 1981, the base housing office directed that his occupancy of the Government quarters be terminated effective February 12, 1981, and authorized a local movement of his household goods at Government arrangement and expense.

During the latter part of January and the early part of February, Major Smith personally moved all his household goods out of his Government quarters to the Tyler, Texas, area where his wife was residing. He seeks to be reimbursed

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his out-of-pocket expenses of \$505.21 for truck rental, gasoline, hired labor, and meals.

As justification for his claim, Major Smith has supplied us with cost comparison indicating that local drayage charges for his goods (based on 12,000 pounds) would have been \$1,256.40. Thus, he indicates that his actions resulted in the Government being saved the expense of moving him or reimbursing him for a do-it-yourself move. Additionally, in an administrative report submitted with the claim, it is pointed out that Major Smith then had over 27 years' service and expected to retire in the near future and move to Tyler, Texas. Since upon retirement he would be entitled to move his goods at Government expense to Tyler, Texas, his actions in moving his goods prior to retirement would result in a cost saving to the Government when he retires.

In this case we are presented with a situation where the member concerned is seeking a move at Government expense not in connection with orders directing a permanent change of station or retirement. While there is limited authority for a move when orders have not been issued (37 U.S.C. § 406(e)) this authority is only applicable under unusual or emergency situations. Implementing regulations are found in Part F of Chapter 8 of Volume 1 of the Joint Travel Regulations (1 JTR). As the regulations reflect and we have stressed on numerous occasions, the unusual or emergency situations contemplated by 37 U.S.C. § 406(e) are conditions of a general nature related to military operations as military needs and not to conditions of a personal nature. 59 Comp. Gen. 626, 629 (1980), and cases cited. See also B-208861, November 10, 1982.

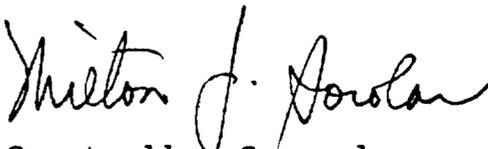
Here, the member's vacating Government quarters was due to conditions of a personal nature. Therefore, he is not entitled to a move at Government expense under the authority of 37 U.S.C. § 406(e) and its implementing regulations in Part F of Chapter 8 of 1 JTR. 52 Comp. Gen. 769 (1973).

As Major Smith indicates, we are aware that the Air Force regulation governing assignment of family housing provides that a member is to terminate family housing if he no longer lives permanently with his dependent, and that his move out of those quarters will be at Government expense.

Air Force Regulation 90-1, paragraph 10-3(f) (17 December 1977), as amended by Interim Message Change 78-1 (October 1978). This regulation, however, is primarily concerned with the conditions under which family housing is assigned. The provisions of the travel regulations govern the allowances for transportation of household goods. The provisions applicable when a member must vacate Government quarters is 1 JTR paragraph M8309-2 which authorizes local drayage of household goods for "involuntary moves" which are directed by competent authority on the basis of a requirement of the service concerned such as "vacating Government quarters based on competent orders." This paragraph also states that such drayage is not authorized incident to the termination of Government quarters due to personal problems or for the convenience or morale of individual members. This paragraph provides no authority for payment of Major Smith's claim since his move was not local drayage but was a long distance move, and the termination of his family quarters appears to have been for his and his wife's convenience.

As we view this case, Major Smith effectively moved his household goods to Tyler, Texas, in contemplation of retirement but before retirement orders were issued. Such a situation creates no entitlement to reimbursement of transportation expenses. E.g., Matter of Bozath, B-194438, April 16, 1979. This is true even if the move might otherwise have provided some cost saving to the Government since there must be some statutory authority for an entitlement to serve as a basis to reimburse a member.

Accordingly, the disallowance of Major Smith's claim is sustained.

for 
Comptroller General
of the United States