

DECISION



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

FILE: B-210170

DATE: July 6, 1983

MATTER OF: Angus C. Jones - Excess temporary storage charges

DIGEST:

An employee received a permanent change of station transfer from Washington, D.C., to Fort Sam Houston, Texas. As a condition of employment, he was required to perform temporary duty overseas for approximately 120 days en route to Fort Sam Houston. Because of overseas assignment he found it necessary to store his household goods in excess of 60 days and seeks reimbursement on basis that he was entitled to non-temporary storage. Nontemporary storage for overseas assignments only applies when the assignment is for permanent duty. Where such assignment is not overseas nor to an isolated United States location, storage rights are governed by FTR para. 2-8.2c, which limits storage reimbursement to 60 days.

This decision is in response to a request from the Comptroller, Defense Mapping Agency, on the question as to whether one of their employees is entitled to be reimbursed for the cost of storage of his household goods in excess of 60 days, while performing temporary duty incident to a permanent duty station transfer. Reimbursement is denied since there is no authority for payment of storage beyond 60 days.

BACKGROUND

Mr. Angus C. Jones transferred to the Inter American Geodetic Survey (IAGS) from another branch of the Defense Mapping Agency, effective June 8, 1980. As a result, he received a permanent change of station transfer from Washington, D.C., to Fort Sam Houston, Texas. At that time, IAGS headquarters was located at Fort Clayton, Panama, but was in the process of being relocated to Fort Sam Houston. That relocation change was not formally established until August 1, 1980.

Mr. Jones was required to go to Panama and Paraguay for approximately 120 days of temporary duty as a condition of employment before reporting to his permanent duty station, Fort Sam Houston. Mr. Jones agreed to that arrangement on the provision that he would be authorized nontemporary storage of his household goods while performing temporary duty overseas.

The travel authorization prepared in his case shows that he was being transferred on a permanent change of station move to Fort Sam Houston, effective October 16, 1980, with 3 days temporary duty at Fort Clayton, Panama, followed by approximately 120 days of temporary duty in Paraguay en route to Fort Sam Houston. Item 14 of that authorization did not provide for nontemporary storage of household goods; however, by personnel action dated November 24, 1980, that item was changed to authorize it. It was again changed, by personnel action dated February 18, 1981, to authorize temporary storage not to exceed 60 days in lieu of nontemporary storage.

Mr. Jones began his travel on June 11, 1980. He did not have his household goods placed in storage until September 16, 1980. On or about December 22, 1980, they were removed from storage and shipped to Fort Sam Houston.

Mr. Jones paid \$1140.98 for transportation and storage charges and was reimbursed \$843.68, on the basis that under the regulations he was only entitled to temporary storage and that such storage is limited to a maximum of 60 days for reimbursement purposes. He is presently reclaiming the balance due of \$297.30, of which \$172.90 is for an additional 2 months storage.

The submission confirms the fact that Mr. Jones was initially given improper information regarding storage entitlements since nontemporary storage of household goods for those who perform duty overseas is only applicable where that assignment is for permanent duty. See 5 U.S.C. § 5726 (1976). However, due to the unusual nature of the situation which gave rise to Mr. Jones' temporary duty assignment, it is requested that, if the law and the regulations do not permit reimbursement, that his claim be considered for reporting to Congress under the Meritorious Claims Act. 31 U.S.C. § 3702(d), as recodified by Public Law 97-258, 96 Stat. 970 (1982).

DECISION

The agency statement regarding the inapplicability of nontemporary storage entitlements in this case is correct. The right of an employee to have his household goods placed in nontemporary storage, during the period of an overseas assignment, only applies to those assignments which are permanent. See B-180083, January 7, 1974. Where an employee's permanent duty assignment is not to an overseas location, nor to an isolated station in the United States, even though such assignment might entail some overseas temporary duty, his right to store household goods is governed by the provisions of 5 U.S.C. § 5724(a)(2) and Chapter 2, Part 8 of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR).

Paragraph 2-8.2c of the FTR provides:

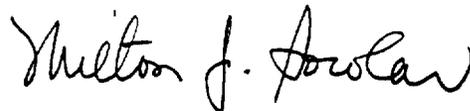
"c. Temporary storage time limit. The time allowable for temporary storage shall not exceed 60 days * * *."

Thus, we have consistently held that the maximum period for which the Government will assume responsibility for the cost of temporary-storage of household goods, incident to an employee's permanent change of station transfer, is limited to that period authorized in the regulations regardless of the circumstances which necessitate additional storage time. See Harry E. Johnson, B-201043, June 26, 1981, and cases cited. Therefore, in view of the fact that Mr. Jones has been reimbursed for 60 days of temporary storage incident to his permanent change of station transfer, payment for the additional period claimed would not be authorized.

With regard to the request that Mr Jones' situation be considered for reporting to Congress under the Meritorious Claims Act we do not consider it to be appropriate. The Meritorious Claims Act provides that when a claim is filed with the General Accounting Office which may not be lawfully paid by use of an existing appropriation but which claim, in our judgment, contains such elements of legal liability or equity as to be deserving of the consideration of Congress, it shall be submitted to Congress with our recommendations. Clearly, such a remedy is an extraordinary one and its use is limited to extraordinary circumstances which are unlikely to recur, since to report a particular case when similar equities exist or are likely to arise with respect to other claimants similarly situated would constitute preferential treatment.

Mr. Jones' case does not satisfy the foregoing conditions. We have already considered cases similar to his and have denied recovery of temporary storage costs for periods in excess of 60 days. Harry E. Johnson, supra; Spencer T. Thomas, B-198406, February 8, 1978. Therefore, we do not feel that this case should be submitted under the Meritorious Claims Act.

In review of the settlement made in Mr. Jones' case, we note that the invoice dated June 27, 1981, contains a charge for additional transportation (\$32.50), not included in the amount reimbursed to him. Additionally, we note that the charge for excess valuation was prorated (\$16.90) and erroneously included in the reimbursement. That amount should be deducted. See John S. Phillips, B-206973, May 18, 1983; FTR para. 2-8.4e(3). Thus, it appears that an additional \$15.60 is due Mr. Jones and is to be paid, if otherwise correct.



Acting Comptroller General
of the United States