DECISION

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

FEA 2

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FILE: B-209873 **DATE:** July 6, 1983

MATTER OF: Donald F. Daly

DIGEST:

1. Employee who was separated involuntarily from the Department of the Interior in Lawton, Oklahoma, due to a reduction in force is entitled to relocation expenses where within 1 year of his separation he was reemployed by the Department of Education in Washington, D.C. The fact that the employee's travel orders were issued subsequent to his move does not reduce that entitlement.

2. Agency properly denied employee reimbursement for use of two vehicles where employee lacked justification for use of second vehicle under paragraph 2-2.3e(a) of the Federal Travel Regulations. Either employee's or his spouse's vehicle could have transported both with luggage. Use of a second vehicle may not be justified on the basis of a general statement that the vehicles were used to transport personal belongings.

3. Employee who was authorized shipment of household goods incident to a permanent change of station is limited to the actual expenses of that shipment in this case. Since transportation by Government Bill of Lading would have been less costly than reimbursement under the commuted rate system, 41 C.F.R. § 101-40.206 requires that reimbursement be limited to the low-cost Government mover. However, where agency failed to comply with requirement to make cost determination before shipment of the household goods, employee may be reimbursed actual expenses not in excess of the amount that would be allowable under the commuted rate system.

4. Agency has discretion to approve temporary quarters subsistence expenses incident to a permanent change of station and employee is not entitled to temporary quarters subsistence expenses allowance in absence of administrative authorization or approval.

An authorized certifying officer of the Department of Education, Washington, D.C., has requested an advance decision concerning the reclaim of Donald F. Daly for relocation expenses incurred incident to a permanent change of station.

Mr. Daly was employed at the Department of the Interior in Lawton, Oklahoma, where he was separated due to a reduction in force. Several months later, he accepted a position with the Department of Education in Washington, D.C. At that time he was not issued orders authorizing reimbursement of permanent change-of-station expenses. However, several months after he moved to Washington, D.C., in January 1981, it was determined that he was entitled to reimbursement for relocation expenses under 5 U.S.C. § 5724a(c) and he was issued orders authorizing expenses incurred in his move to Washington.

Mr. Daly submitted vouchers claiming permanent change-of-station expenses for travel by two privately owned vehicles, transportation of household goods, temporary quarters subsistence expenses and miscellaneous expenses. With the exception of miscellaneous expenses, his claims were disallowed or reduced by the Department of Education. Mr. Daly has submitted reclaim vouchers for these items.

An employee separated involuntarily due to a reduction in force who, within 1 year, is reemployed by the Government at another geographical location is entitled to reimbursement for relocation expenses under 5 U.S.C. § 5724a(c) which provides that an employee so separated and reemployed may receive prescribed benefits "* * * as though he had been transferred in the interest of the Government without a break in service * * *." B-172824, May 28, 1971. The fact that travel orders were not issued before Mr. Daly moved does not lessen his right to reimbursement as long as his claim for reimbursement

complies with all of the relevant portions of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973). Matter of Goss, B-200841, November 19, 1981. Thus, Mr. Daly is entitled to reimbursement of expenses he incurred in moving to Washington insofar as claims for similar expenses would be allowed transferred employees.

TRANSPORTATION OF HOUSEHOLD GOODS

Mr. Daly was unaware at the time of his move that he could be reimbursed for his relocation expenses. He obtained an estimate of the cost of that move from a moving company on January 12, 1981. The estimated cost, based upon an estimated weight of 6,500 pounds of household goods and upon the moving company performing all the packing, crating, transportation, handling, and storage in transit services, was $2,792.45. The next day Mr. Daly obtained another estimate from a different moving company, which was based upon the moving company providing only a transportation service. The cost of this service, based on an estimated weight of 5,500 pounds, was $2,013.66. Mr. Daly did not contract with either company but elected to move his household goods in a truck which he rented at a cost $365.09.

When Mr. Daly learned that he was entitled to reimbursement of his relocation expenses he claimed reimbursement for transportation of his household goods under the commuted rate system described in FTR paragraph 2-8.3a. Although Mr. Daly supplemented his voucher with a memorandum dated April 12, 1982, in which he claimed that the actual cost of moving his household goods was greater than the amount claimed under the commuted rate system, the Department denied any reimbursement on the basis that he had not provided weight certificates to support payment under the commuted rate system.

Paragraph 2-8.3a of the FTR provides that employees who transport their own household goods, as Mr. Daly did, should normally obtain proper weight certificates in order to be reimbursed under the commuted rate system. However, it also provides for reimbursement if the employee can establish the constructive weight of his household goods. In order to establish his constructive weight, Mr. Daly offered the two estimates prepared by moving companies in Lawton before the move, one of which

included an actual listing of Mr. Daly's property on a standard form converting the property into an estimated cubic footage and weight. He also stated that moving companies in Washington produced similar estimates of his household goods for a subsequent move that he recently completed. Although previous decisions of the Comptroller General have discussed how constructive weight is established for reimbursement under the commuted rate system (see Matter of Pater, 60 Comp. Gen. 148 (1980); 48 Comp. Gen. 115 (1968)), we need not decide whether constructive weight was established in this case, since Mr. Daly's reimbursement is nonetheless limited to the actual expenses he incurred.

Effective December 30, 1980, 41 C.F.R. § 101-40.2 was amended to require each agency to obtain a cost comparison for each Government-financed household goods move and to determine on a cost basis whether reimbursement will be provided according to the commuted rate system or whether the goods will be shipped by Government Bill of Lading (GBL) under the actual expense method described in FTR paragraph 2-8.3b. Had the Department performed the required cost comparison it would have found that the General Services Administration had negotiated rates with a mover between Lawton and Washington that were lower than the commuted rate claimed by Mr. Daly. It would therefore have prescribed the lower cost reimbursement system for Mr. Daly, and under 41 C.F.R. § 101-40.206 (1981) his reimbursement for transportation of household goods would have been limited to that low cost. However, the regulations require that cost comparisons be made as far in advance of the moving date as possible and agencies are cautioned to counsel employees as to their responsibilities for excess costs if they choose to move their own household goods. 41 C.F.R. §§ 101-402.203-4(b) and 101-402.203-2(c) (1981). In a previous situation the Comptroller General held that where an agency had not obtained a cost comparison until 2 months after the household goods were shipped, the employee's reimbursement should not be limited to the cost of transportation by GBL even though the comparison established that movement by GBL was less costly than reimbursement on a commuted rate basis. The decision also held that since the Centralized Household Goods Traffic Management Program implemented by 41 C.F.R. § 101-40.2 was intended to limit reimbursement to the lower cost method of transportation, the employee should not receive reimbursement

at the commuted rate but only to the extent of his actual costs, provided they were less than the commuted rate. Matter of Phillips, B-206973, May 18, 1983, 62 Comp. Gen. ___.

As supplemented by his April 12 memorandum Mr. Daly has claimed actual costs of transporting his household goods that were greater than the reimbursement allowable under the commuted rate system for 5,500 pounds of household goods. The expenses he has claimed include $225 for hiring labor at origin to load the rented truck, $150 for labor to unload at destination, $1,320 for hiring a person to drive the rented truck and supervise the loading, $365.09 for truck rental, $341.04 in gasoline receipts, $65 for towing, and $151.95 for packing containers. Although the total of these items exceeds the commuted rate reimbursement of $2,337.50 for a shipment of 5,500 pounds the record does not provide a basis to reimburse Mr. Daly even the $2,337.50 amount.

The difficulty with the present record is in determining what Mr. Daly's actual expenses were. The only expenses documented with receipts are truck rental and gasoline purchases. These expenses may be allowed. However, there is nothing in the record to substantiate that the other amounts claimed are for expenses actually incurred. For example, Mr. Daly stated in his April 12 memorandum that "Containers for packing were purchase. Mayflower estimate of cost used, $151.95." The $151.95 amount in fact appears on Mayflower's January 12 estimate. Since Mr. Daly is entitled to be reimbursed only those out-of-pocket expenses he actually incurred in transporting his household goods, he may not be reimbursed for the cost of packing materials that a moving company estimated it would charge. Similarly, there is nothing in the record to substantiate Mr. Daly's claim that he incurred $1,695 in labor charges for transporting his household goods. As detailed in his April 12 memorandum, that figure represents 18-1/2 man-days of labor, an amount that appears to be excessive considering the volume and distance transported. In the absence of further evidence to substantiate his claim for these and the towing charges claimed, Mr. Daly's reimbursement is limited to the $706.13 claimed for truck rental and gasoline.

TRAVEL TO NEW DUTY STATION

According to the travel voucher Mr. Daly traveled alone in his privately owned pick-up truck from Lawton, Oklahoma, to Washington, D.C., from January 16 to January 21, 1981. His wife accompanied him in a separate car during the same time period. Mr. Daly claimed reimbursement for both vehicles at a mileage rate of 11.25 cents per mile. The Department of Education limited reimbursement to mileage for one vehicle at the rate of 10 cents per mile under FTR paragraph 2-2.3b (April 1977). It denied reimbursement for the second vehicle under FTR paragraph 2-2.3e(1).

The Federal Travel Regulations in effect in January 1981, the time in which Mr. Daly and his wife traveled, provided mileage rates for permanent change-of-station travel in paragraph 2-2.3b:

> "b. Mileage rates prescribed. Payment of mileage allowances, when authorized or approved in connection with the transfer, shall be allowed as follows:

Occupants of automobile	Mileage rate (cents)
Employee only; or one member of immediate family	8
Employee and one member; or two members of immediate family * * *"	10

Regarding the use of more than one privately owned vehicle paragraph 2-2.3e provides in pertinent part:

> "e. Use of more than one privately owned vehicle.
>
> "(1) When authorized as advantageous to the Government. Use of no more than one privately owned automobile is authorized under this part as being advantageous to the Government in connection with permanent change of station travel except under the following special

circumstances, when use of more than one privately owned automobile may be authorized:

"(a) If there are more members of the immediate family than reasonably can be transported with luggage in one vehicle * * *."

The Department of Education determined that Mr. Daly lacked justification under paragraph 2-2.3e for use of the second vehicle. Therefore, it permitted 10 cents per mile under paragraph 2-2.3b based upon use of only one vehicle with two occupants, Mr. Daly and his wife. Reimbursement as though all persons traveled in one vehicle is specifically provided for by subparagraph 2-2.3e(3).

In a memorandum to the Department of Education, Mr. Daly explained his need to use two automobiles by the fact that both vehicles were packed with personal belongings. He also stated that he did not have space for his wife in the pick-up truck which he drove and argues that if she had not driven her automobile she would have had to fly at a greater cost than the mileage claimed.

The number of occupants of a vehicle and accompanying luggage may justify use of two privately owned vehicles. However, the record in this case does not justify the use of a second vehicle because only two persons were authorized to travel. There is no showing that the employee and his wife together with necessary luggage could not have traveled in one vehicle. The explanation that a quantity of personal belongings were transported in one or both vehicles is not sufficient to permit payment on the basis that both vehicles were necessary for the transportation of the employee and his wife. Under these circumstances the certifying officer correctly determined the mileage reimbursement at 10 cents per mile for travel by one vehicle.

TEMPORARY QUARTERS SUBSISTENCE

Mr. Daly claimed $870.50 for temporary quarters subsistence expenses. The certifying officer denied the total amount "* * * due to lack of authorization on the

travel orders for such expenses." Under the provisions of sections 5724a(a)(3), and 5724(a) of title 5, United States Code, and implementing regulations in paragraph 2-5.1, et seq. of the FTR an employee and his immediate family may be reimbursed for the expenses of occupying temporary quarters in connection with an official transfer to a new duty station. In accordance with this authority, authorization for temporary quarters subsistence is discretionary with the agency. Matter of Bidus, B-201812, June 9, 1981; Matter of Bracy, B-196596, January 9, 1980. There is no requirement that the authorization for temporary quarters be in the travel order or that it be given before the employee stays in the temporary quarters. Matter of Kingfisher, B-189580, March 31, 1978. Although temporary quarters expenses may be approved by agency administrative action after the fact, in this case the certifying officer has stated that "The determination to exclude temporary quarters was a cognizant decision by the issuing organization." In the absence of administrative approval, Mr. Daly is not entitled to temporary quarters subsistence expenses and the certifying officer was correct in denying his claim.

Accordingly, we are returning the vouchers submitted by the certifying officer for action in accordance with this decision.

Milton J. Socolar

Acting Comptroller General
of the United States