

DECISION

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

Willard
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FILE: B-215390**DATE:** November 20, 1984**MATTER OF:** Captain Tim H. Roberts, USNR

DIGEST: A Navy member was ordered to transfer from a vessel, whose home port was Mayport, to the Naval Air Station, Jacksonville, Florida. Transportation of dependents was not authorized and Government quarters were not provided at the new duty station. Both Mayport and the Naval Air Station are located within the corporate limits of Jacksonville, and under agency regulations where the transfer is between stations within the same city, no change of permanent station occurs. In the absence of a change of permanent station, regulations prohibit payment of a dislocation allowance, either on a with-dependent or without-dependent theory, even though the dependents were required to vacate Government quarters.

This decision concerns whether Captain Tim H. Roberts, USNR, is entitled to a dislocation allowance as a result of his transfer from a ship home ported in Jacksonville, Florida, to a shore station located in Jacksonville.^{1/} We conclude that the allowance may not be paid.

Background

By orders issued in January 1983, Captain Roberts was transferred from his duty station on the USS Yosemite to the Naval Air Station, Jacksonville, Florida, effective in July 1983. Until the transfer his dependents occupied Government quarters at the Naval Station, Mayport, Florida, the home port of the Yosemite. Although Captain Roberts preferred to commute between Mayport and his new duty station, he relocated his family to Orange Park, Florida, because upon his transfer, his dependents were required to vacate the Government quarters in Mayport.

^{1/} The matter was forwarded by the Navy Accounting and Finance Center and was approved by the Per Diem, Travel and Transportation Allowance Committee, which assigned it Control No. 84-11.

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The Naval Air Station and Mayport are located within the corporate limits of the same city, Jacksonville. Captain Roberts was not assigned Government quarters at his new duty station.

The question is asked whether in these circumstances Captain Roberts qualifies for a dislocation allowance as a member with dependents or, in the alternative, as a member without dependents.

With-Dependents Dislocation Allowance

On the with-dependents theory it is contended that he incurred dislocation expenses as a direct result of a requirement that his family vacate the Government quarters at Mayport; therefore, he should be entitled to the allowance. On this theory it is also argued that the regulation^{2/} that prohibits payment of a dislocation allowance in connection with travel performed between stations located within the same city should not apply here because Captain Roberts' old station, a ship, was not a fixed location.

We previously considered a situation where the member and his dependents were required to vacate Government quarters when he was ordered to transfer from a shore station to a ship home ported in the same city. We held that the relevant statute, now codified at 37 U.S.C. § 407 (1982), does not provide a right to the allowance unless a permanent change of station had been ordered, as defined in the Joint Travel Regulations. 36 Comp. Gen. 824 (1957). Since the definition of a permanent station included the corporate limits of the city in which the duty station was located or the ship was home ported, we concluded that no permanent change of station had occurred and the dislocation allowance was not payable.

Currently, "permanent station" is defined in the Joint Travel Regulations (JTR), vol. 1, Appendix J, as the post of duty, including a home port of a vessel

^{2/} Joint Travel Regulations, volume 1, para. M9004-1, item 4 (change 353, July 1, 1982).

(insofar as transportation of dependents and shipment of household goods is concerned), to which a member is assigned for duty, the limits of which, if in a city, will be the corporate limits of such city. Under that definition, in relation to his dependents Captain Roberts' old station was the vessel's home port, the Naval Station at Mayport, which is part of Jacksonville, and Jacksonville was also the new station. In a similar case we held that no permanent change of station occurred, for allowance purposes, when a member transferred from Mayport to the Naval Air Station, Jacksonville, Florida, because under the definition of "station" the limits of Mayport were the corporate limits of Jacksonville, and Jacksonville included the Naval Air Station. B-169326, May 5, 1970. See also B-185099, June 1, 1976, and decisions cited therein, reaching the same conclusion concerning dependents' transportation in these circumstances.

Accordingly, Captain Roberts is not entitled to a dislocation allowance as a member with dependents.

Without-Dependents Dislocation Allowance

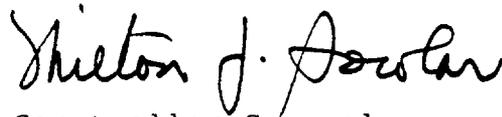
Entitlement on a without-dependents theory is based on the definition of "member without dependents" in 1 JTR, para. M9001-2. We have held that a member with dependents may have a valid claim for dislocation allowance as a member without dependents under the definition in paragraph M9001-2 where the member is not entitled to move his dependents under the provisions of paragraph M-7000 and he is not assigned to Government quarters at his new station. Lieutenant Colonel Richard P. Giesler, B-189020, August 18, 1977. In that case, however, the member's transfer involved a permanent change of station, while Captain Roberts' transfer did not.

The Yosemite's home port and Captain Roberts' new duty assignment were both located within the corporate limits of Jacksonville. Under similar facts we held that the member was not entitled to the allowance on either the with-dependents or without-dependents theory. Commander James P. Brown, Jr., B-186703, December 28, 1976.

In that case, the member was transferred from his duty assignment aboard ship to duty ashore at Seattle, Washington, which was also the ship's home port. We noted that on either basis, entitlement depended on a permanent change of station. Under the definition of permanent station in 1 JTR, Appendix J, a ship's home port is considered a member's permanent duty station insofar as transportation of household goods and dependents is concerned.^{3/} We noted that the ship's home port and his new duty station were both in Seattle, and that 1 JTR, para. M9004-1.4, prohibits payment of the allowance where a change of station occurs between stations located in the corporate limits of the same city. Here, 1 JTR, para. M9004-1.4, prohibits payment of the allowance to Captain Roberts on the without-dependents theory because the change of station occurred between stations located within Jacksonville's corporate limits.

Conclusion

Accordingly, we conclude that the regulations do not provide for the allowance under either theory. Even though Captain Roberts may have incurred relocation expenses, we have no authority to waive regulations which are promulgated pursuant to law. See Giesler, B-189020, supra.

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Comptroller General
of the United States

^{3/} The ship itself is considered the permanent station for the purpose of the member's personal travel and shipment of personal effects located on board ship; however, that does not affect the determination here.