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**DECISION**



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

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**FILE:** B-215701

**DATE:** December 3, 1984

**MATTER OF:** Huai Su - Travel and Relocation Expenses

**DIGEST:**

1. An employee, who received a permanent change-of-station transfer, was denied reimbursement for several relocation expense items. On reclaim, the employee asserts entitlement since the variance in his travel plans was administratively known beforehand and since it was ultimately cost beneficial to the government. The employee argues that a more flexible attitude should be taken when applying the travel regulations. However, the governing regulations, Federal Travel Regulations, FPMR 101-7 (September 1981), are statutory regulations, and therefore, have the force and effect of law. As such, they may not be modified or their application waived by the employing agency or by our Office. Dominic D. D'Abate, B-210523, October 4, 1983, 63 Comp. Gen. 2.
  
2. An employee, pursuant to a permanent change-of-station transfer, was authorized an advance house-hunting trip. He made an unaccompanied trip before reporting for duty at his new station, but did not return to his old station at that time. Paragraph 2-4.1 of the Federal Travel Regulations requires a roundtrip house-hunting trip be completed before reporting for duty at new station for reimbursement purposes. Where return travel is not performed before the employee reports for duty, the travel actually performed is regarded as the employee's permanent change-of-station travel and is reimbursed on that basis. However, househunting per diem would be payable for the days spent seeking permanent

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quarters in advance of reporting for duty, not to exceed house-hunting days actually authorized. Gary E. Pike, B-209727, July 12, 1983, and decisions cited.

3. An employee, pursuant to a permanent change-of-station transfer, was authorized travel for himself and his immediate family using two privately owned vehicles. He traveled by air to his new duty station in advance of his family and had one of his vehicles shipped there. Although his air fare was paid, he seeks reimbursement for both vehicles on a constructive mileage basis. Under the Federal Travel Regulations (FTR), Chapter 2, Part 2, the basic entitlement of an employee on a transfer is that each family member is entitled to a single, one-way trip to the new duty station. Since the employee had already performed travel to new station and the one vehicle left at old station accommodated the other members of his family, mileage reimbursement is limited to the one vehicle which transported his family, at rates prescribed in FTR, para. 2-2.3(b). Gary E. Pike, B-209727, July 12, 1983.
4. An employee, pursuant to a permanent change-of-station transfer, reported for duty on February 8, 1983. He was paid temporary quarters subsistence expenses for himself for the period February 8-26, 1983. Family members arrived at the new station on June 26, 1983, and remained in temporary quarters until July 6, 1983. The employee's claim for subsistence expenses for himself and his family during the second period, in addition to that

claimed for the first period, is not allowed. Entitlement to temporary quarters subsistence expenses under the Federal Travel Regulations (FTR), Chapter 2, Part 5 is for a consecutive day period only, not to exceed 30 days, and runs concurrently for all family members. However, under FTR para. 2-5.2(e), the period of temporary quarters may be deferred until the family members arrive at the new station, and the employee has the option of claiming either the earlier period or the later period, whichever provides the greater benefit. See decisions cited.

This decision is in response to a request from the Chief, Branch of Financial Management, Geological Survey, United States Department of the Interior. It concerns the travel, transportation and certain other relocation expense entitlements of a Geological Survey employee incident to a permanent change-of-station transfer in February 1983.

#### BACKGROUND

The employee, Mr. Huai Su, a metallurgist with the agency's Mineral Management Service, received a permanent change-of-station transfer from Newark, California, to Denver, Colorado. He reported for duty on or about February 8, 1983. His travel authorization dated January 13, 1983, authorized permanent change-of-station travel for him and his immediate family (spouse and two dependent children), via common carrier and privately owned vehicle (that item was amended on January 19, 1983, to authorize travel by two private vehicles in lieu of common carrier travel); an advance house-hunting trip not to exceed 10 days; transportation of household goods; travel per diem; and temporary quarters subsistence expenses, not to exceed 30 days.

Mr. Su and his family did not perform all aspects of the permanent change-of-station travel in the manner envisioned when his travel authorization was issued. It

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appears that due to the shortness of time, Mr. Su made an unaccompanied house-hunting trip to Denver, Colorado, on February 5, 1983, and then reported for duty at that location several days later, without returning to California. He did not return to his old residence until June 1983, when he assisted his family in their move to the Denver, Colorado, area. Additionally, instead of using one of his automobiles as his mode of transportation, he flew to Denver, having previously shipped one of them to Denver in late January. The other automobile was left in California for his family's use and for their eventual transportation to the Denver area.

Following completion of his family's move to Denver, Mr. Su submitted a travel claim totaling \$7,185.56. By notice of suspension and disallowance dated September 18, 1983, the agency allowed only \$2,802.60 and provided an itemized explanation as to why the remaining claimed expenses were either adjusted or disallowed. In support of a part of those disallowed items, the notice contained a reference to our decision in Gary E. Pike, B-209727, July 12, 1983.

On reclaim, Mr. Su asserts entitlement to an additional \$922.62, representing the following items disallowed based on the Pike case:

(1) His return trip to his old duty station 4 months after he reported to his new duty station. Mr. Su considers this to be the return portion of his house-hunting trip.

(2) Travel per diem for himself while accompanying his family on the subsequent trip from his old duty station to Denver, Colorado, in June 1983. Mr. Su considers this to be his enroute travel for reporting for duty purposes.

(3) Temporary quarters subsistence expenses for the period June 26 through July 6, the period after he and his family arrived in Denver and before they actually moved into their permanent quarters, in addition to the subsistence expenses already paid him for the period February 8-26, 1983.

In addition, Mr. Su claims mileage for the automobile that was shipped. Mr. Su considers this to be proper since he was authorized travel by two privately owned vehicles due to the fact that he and the rest of his family would be traveling at different times.

There are two bases upon which Mr. Su considers these items properly reimbursable. The first is that it was cost beneficial to the government. It is his view that so long as an employee's travel variance ultimately benefits the government and does not cost the government additional money, the government should take a more flexible attitude when applying the travel regulations. The second is the contention that all aspects of his travel and the timing were fully approved administratively before he left for Denver.

#### DECISION

With regard to Mr. Su's first contention, we must point out that the laws governing employee reimbursement for relocation expenses incurred incident to a transfer in the interest of the government from one official duty station to another for permanent duty are contained in 5 U.S.C. §§ 5724 and 5724a (1982). Those sections authorize payment for such relocation expenses as employee travel, transportation of the employee's immediate family, movement of the household goods, payment of per diem for en route travel, temporary quarters subsistence expenses (TQSE) and, when authorized, a roundtrip house-hunting trip. Both of those Code provisions state that all entitlements are to be governed by regulations. Those regulations are contained in Chapter 2 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR). Since these regulations are specifically authorized by law, they have the force and effect of law. In the absence of terms in the law or the regulations otherwise permitting, the provisions of the FTR may not be modified or waived in an individual case by the employing agency or our Office. See Dominic D. D'Abate, B-210523, October 4, 1983, 63 Comp. Gen. 2, and decisions cited therein.

Although Mr. Su contends that all aspects of his travel and the timing of that travel had been fully approved administratively before he undertook it, we note that the issue

is not whether there was an administrative awareness of the variance with his travel authorization. The only issue is whether the manner in which his relocation travel was performed may be reimbursed as a matter of law. To the extent that Mr. Su may have received improper advice in this matter, it is well settled that the government is not bound by the acts of its officers or employees which go beyond the actual authority conferred by law, nor is the government estopped from repudiating any such unauthorized acts. See Dr. Frank A. Peak, 60 Comp. Gen. 71, 74 (1980), and cases cited therein. See also Schweiker v. Hansen, 450 U.S. 785 (1981). Therefore, regardless of the circumstances, an employee's right to be reimbursed for relocation expenses is strictly limited to that authorized by statutes and the Federal Travel Regulations.

#### House-hunting and Permanent Change-of-Station Travel

Part 2 of Chapter 2, of the FTR provides the rules governing basic entitlement to per diem, travel and transportation allowances for employees performing permanent change-of-station transfers. As we stated in Pike, cited above, the thrust of these provisions is to permit the employee and the members of the immediate family to travel at government expense from the old station to the new duty station by such means as are authorized by the employing agency. The allowable costs for that travel may not exceed the costs of travel by the usually traveled route from the old station to the new station by the mode of travel authorized. Pike, cited above. As this applies to Mr. Su's case, his basic travel entitlement under these provisions is that he and each member of his immediate family was authorized to perform a single, one-way trip to his new permanent duty station at government expense incident to his transfer.

With regard to Mr. Su's house-hunting trip, para. 2-4.1 of the FTR provides in part:

"\* \* \* A round trip by the employee for this purpose, when authorized, must be accomplished prior to his/her reporting to the new official station. \* \* \*"

Where an employee is authorized to perform a roundtrip house-hunting trip, the entire roundtrip must be completed prior to reporting for duty. If the employee completes only the outbound portion of that travel prior to reporting for duty at the new station, such travel as performed may not be regarded as being a house-hunting trip. Pike, cited above. This travel will be regarded as permanent change-of-station travel, thereby exhausting the employee's change-of-station travel entitlement. Notwithstanding that, we have approved payment of house-hunting per diem where the employee's travel to the new duty station was initiated earlier than otherwise required for reporting purposes in order to accommodate house-hunting efforts. The employee is entitled to per diem during that time, not to exceed the number of days authorized for the house-hunting trip. See Pike, cited above, and Peter Cardoza, Jr., B-195787, June 11, 1980. Therefore, if not previously paid, Mr. Su may be allowed house-hunting per diem from February 5 until February 8, 1983.

With regard to Mr. Su's automobile mileage claim for his travel to Denver in February 1983, we note that under the provisions of FTR para. 2-2.3, the use of privately owned vehicles may be authorized when determined to be advantageous to the government, with reimbursement on a mileage basis for such use to be in lieu of reimbursement for other otherwise approved modes of transportation. Mr. Su had two automobiles and received agency approval to use both of them since he would be traveling to his new duty station in advance of his family. As previously noted, he chose instead to travel by air to Denver, Colorado, and to ship the automobile which he otherwise would have used. Since his air travel at government expense exhausted his permanent change-of-station travel entitlement, he is not entitled to the mileage. Pike, cited above. Further, while Mr. Su was authorized use of a privately owned vehicle for permanent change-of-station travel, there is no authority, with the exception of overseas transfers, for reimbursement for the cost of transporting a privately owned vehicle. See FTR, Chapter 2, Part 10.

With regard to the second automobile which Mr. Su left at his old residence, the record shows that it was used to transport his immediate family to Denver. Therefore, Mr. Su

is entitled to mileage reimbursement for this vehicle in which his three dependents traveled, at the rates prescribed in FTR para. 2-2.3(b). See Pike, cited above.

Temporary Quarters Subsistence Expenses

Under the provisions of Chapter 2, Part 5, of the FTR, an employee may be reimbursed for TQSE incurred incident to a permanent change-of-station move while the employee and his family necessarily occupy temporary quarters away from their residence at the old duty station and before occupying permanent quarters at the new duty station. See FTR para. 2-5.2. At the time of Mr. Su's transfer, the period of TQSE reimbursement was limited to 30 days for transfers within the conterminous United States. FTR para. 2-5.2a (Supp. 1, September 28, 1981). In addition, FTR para. 2-5.2e provides in part:

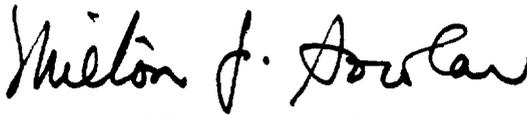
"e. Time to begin occupancy. \* \* \*  
In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his/her new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station  
\* \* \*."

We have consistently held that the period of 30 consecutive days for TQSE reimbursement purposes runs concurrently for all family members whether they actually occupy temporary quarters or not. Earle B. Amey, 60 Comp. Gen. 281 (1981); and B-174695, January 24, 1972. The only interruptions of that consecutive day period are for travel between the old and new duty stations, official travel such as temporary duty away from the employee's new duty station, or a period of officially approved sick leave. See Bobby L. Cook, B-212327, February 22, 1984, 63 Comp. Gen. 222.

Where an employee's family does not accompany the employee at the time of the transfer, we have held that

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FTR para. 2-5.2e permits the employee to claim temporary quarters reimbursement not later than 30 days from the date the employee reports for duty or not later than 30 days from the date the family vacates the residence at the old duty station. Ronald H. Brown, B-193412, August 3, 1979. The employee may properly claim either the earlier period, or the later period of temporary quarters occupancy, whichever will provide the greater TQSE reimbursement. Brown, cited above. Therefore, Mr. Su may be reimbursed for TQSE for himself for the period February 8 to February 26, 1983, or, for himself and his immediate family for the period June 26 to July 7, 1983, whichever period would provide him with the greater benefit.

*for*   
Comptroller General  
of the United States