

DECISION

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

FILE: B-216529

DATE: September 4, 1985

MATTER OF: Lieutenant Mark C. Crocker, AFNG

DIGEST: A member of the Reserve components returning home from ordered active duty for training for over 20 weeks at one location was directed to perform additional duty for less than 20 weeks at two temporary duty points en route home. Since travel incident to duty at a single location for 20 weeks or more is considered permanent-change-of-station travel, the member was entitled to permanent-change-of-station travel allowances for such travel, including the travel to the temporary duty points en route.

The question in this case is whether Lieutenant Mark C. Crocker, a member of the Air National Guard, returning to his home after attending two courses of instruction that lasted more than 20 weeks, is entitled to permanent-change-of-station travel allowances under Chapter 4, Part D, or temporary duty travel allowances under Chapter 4, Part E, of Volume 1 of the Joint Travel Regulations (1 JTR) for his return travel, which included two other duty stations en route to home.^{1/} We conclude that Lieutenant Crocker is entitled to permanent-change-of-station travel allowances under Chapter 4, Part D, 1 JTR, for his return travel.

Facts

Lieutenant Crocker was ordered to active duty in December 1981 from his home in Kenmore, New York, to attend two courses of instruction at Mather Air Force Base, California, of approximately 36 weeks duration, and to return home at the

^{1/} This action is in response to a request for a decision received from Captain E. R. Cortes, Chief, Accounting and Finance Branch, Comptroller Division, Griffiss Air Force Base, New York. The Per Diem, Travel and Transportation Allowance Committee has assigned the request Control Number 84-16.

conclusion of the courses. He drove from New York to Mather in his privately owned automobile. After he had nearly completed his schooling at Mather in August 1982, his original orders were amended to include three additional courses of instruction at different military installations--each less than 20 weeks duration--and a training period of a little over a month at his regular National Guard unit. Pursuant to the amended orders and upon completion of his schooling at Mather, Lieutenant Crocker drove to Fairchild Air Force Base, Washington, and then to Homestead Air Force Base, Florida, where he completed two of the additional courses. Then he drove from Florida to home, arriving October 3, 1982. He reported for training at his regular National Guard unit in Niagara Falls, New York, the next morning and remained in a training status until he departed by airplane on November 14, 1982, for his last course of instruction under the amended orders at Holloman Air Force Base, New Mexico. At Holloman his orders were further amended to direct another training session at his regular National Guard unit upon return from Holloman until another course of instruction could be announced. Lieutenant Crocker departed Holloman by privately owned automobile on December 14, 1982, and arrived for training at his regular National Guard unit on December 20. His original orders were amended there for the last time to include a course of instruction lasting more than 20 weeks at McConnell Air Force Base, Kansas. He departed for McConnell by privately owned automobile on January 20, 1983, and returned home on June 17 the same way after completing the course and being released from active duty.

Issue

Since the two courses of instruction at Mather Air Force Base lasted a total of 36 weeks (more than 20 weeks), the original orders effected a simple permanent change of station from Lieutenant Crocker's home to Mather and would have effected another simple permanent change of station upon release from active duty at Mather upon the conclusion of the courses and return to home. See 1 JTR, App. J. Although these orders were amended several times to include additional courses of instruction and periods of training duty at his regular unit location, which extended the period of continuous active duty to approximately 1-1/2 years, the permanent change of station under his amended orders upon his return from Mather by way of Fairchild Air Force Base and

Homestead Air Force Base to his home is the only part of Lieutenant Crocker's travel in question. The permanent-change-of-station travel allowance when Lieutenant Crocker traveled at his personal expense by privately owned automobile for official travel was a mileage allowance of 13 cents per mile for the official distance plus a flat rate per diem of \$50 per day in whole-day increments for each 300 miles of travel.^{2/} Lieutenant Crocker was paid mileage and per diem upon the change of station from his home to Mather, and he argues that these allowances are also payable for his automobile travel from Mather by way of Fairchild Air Force Base and Homestead Air Force Base to his home in New York. His claim is based on specific authorization for such permanent-change-of-station allowances to be paid for travel by way of temporary duty points (Fairchild and Homestead) incident to a permanent change of station. 1 JTR, paragraph M4151 (Change No. 352, June 1, 1982), Chapter 4, Part D. However, Chapter 6, Part A, subparagraph M6000-1 (Change No. 352, June 1, 1982), which applied to travel of members of the Reserve components in Lieutenant Crocker's situation, appears to conflict with Chapter 4, Part D, because Chapter 6 appears to mandate only temporary duty travel allowances under Chapter 4, Part E, for such travel which results in a lesser entitlement to Lieutenant Crocker. The issue is whether Chapter 6, Part A, subparagraph M6000-1, does in fact mandate temporary duty travel allowances for

^{2/} 1 JTR, paragraphs M4150 (Change No. 352, June 1, 1982), and M4151, Chapter 4, Part D, and Joint Determination No. 28-81, July 29, 1981, reprinted in the Table of Contents, 1 JTR, Chapter 4.

the questioned travel, which would preclude the application of the permanent-change-of-station mileage and per diem allowances.^{3/}

Analysis and Discussion

The permanent-change-of-station allowances authorized to all members of the uniformed services under 1 JTR, paragraph M4151, Chapter 4, Part D, applied to Lieutenant Crocker's automobile travel from Mather Air Force Base by way of Fairchild Air Force Base and Homestead Air Force Base to his home unless that paragraph was superseded by subparagraph M6000-1, Chapter 6, Part A, which pertained specifically to travel of members of the Reserve components. However, our analysis of subparagraph M6000-1 indicates that it was written to complement the rules pertaining to permanent changes of station found in Chapter 4, Part D, for all members of the uniformed services and that there is only an apparent rather than an actual conflict between subparagraph M6000-1 and Chapter 4, Part D. Subparagraph M6000-1 literally does not apply to the disputed part of Lieutenant Crocker's travel. Therefore, when a member of the Reserve components makes a permanent change of station, he is subject to the rules and allowances in 1 JTR, Chapter 4, Part D.

In demonstrating that subparagraph M6000-1 does not apply to Lieutenant Crocker's questioned travel, we will summarily dispose of the provisions clearly not involved and

^{3/} The temporary duty travel allowance for Lieutenant Crocker traveling by privately owned automobile under 1 JTR, Chapter 4, Part E, would amount to 16 cents per mile for the distance of the ordered travel but a per diem allowance computed only for the constructive traveltime that a commercial airplane would require to travel the ordered distance, since his orders did not state the use of an automobile to be advantageous to the Government. See 1 JTR, paragraphs M4203-4(a) and M4204-5(c) (Change No. 352, June 1, 1982). The temporary duty allowances for automobile travel are considerably lower than the mileage plus per diem and the traveltime allowed is restricted to the constructive air traveltime.

fully address only the ones that arguably are involved. Subparagraph M6000-1 is composed of subparts a through d. Subparts a, d, and subparts c(1) and (2) concern travel situations that do not apply to the questioned travel. And since subpart b(1) concerns only travel from home to the first duty station or from the last duty station to home for situations not involved here, it does not apply either. The provisions of subpart c(3) and subpart b(2) remain to be addressed.

Subpart b(2), paragraph M6000-1, provides:

"(2) Travel Between Duty Stations. Members of the reserve components coming within the purview of subpar. c(1) and (2) who are ordered to perform duty at more than one duty station will be entitled to travel and transportation allowances as for temporary duty travel under Chapter 4, Part * * * E * * * for travel between such duty stations."

Significantly, subpart b(2) is the only part of subparagraph M6001-1 specifically applying to travel between duty stations, such as between Mather, Fairchild, and Homestead. Although temporary duty travel allowances rather than permanent-change-of-station allowances are prescribed for the travel, the travel is limited to situations "* * * coming within the purview of subpar. c(1) and (2) * * *." Since subparts c(1) and (2) describe situations where the total amount of active duty performed is for less than 20 weeks in the considered period, performing travel between duty stations as described in subparagraph b(2) within a 20-week period does not apply to Lieutenant Crocker's questioned travel because that travel occurred during a period of duty that was greater than 20 weeks, involving a permanent change of station. Subparagraph b(2) could apply only if the character of Lieutenant Crocker's entire travel is ignored and certain segments of the questioned travel are isolated and examined.

Subpart c(3), paragraph M6000-1, provides:

"(3) Active Duty for 20 Weeks or More

"(a) General. When a member is called to active duty for 20 weeks or more, no per diem

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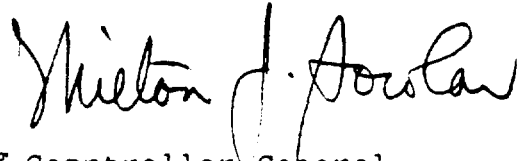
or actual expense allowances are payable at any location where the duty to be performed is for 20 weeks or more regardless of the availability of Government quarters and Government mess.

"(b) Active Duty at More Than One Location. When the active duty is to be performed at more than one location, per diem, travel and transportation allowances, including miscellaneous reimbursable expenses, are payable at any location where the duty to be performed is for less than 20 weeks at the same rates and subject to the same provisions and deductions as are provided for temporary duty in Chapter 4, Parts * * * E * * *."

Note that in subpart c(3)(b) there is no language similar to that found in subpart b(2), which describes the allowances as applying "* * * for travel between such duty stations." And both subparts describe situations where members are ordered to perform duty at more than one duty station. Nowhere in subparagraph M6000-1 is there a specific provision for travel between permanent duty stations or to or from a temporary duty station en route to or from a permanent duty station during a permanent change of station. We believe that the reason is because of the complementary nature of subparagraph M6000-1 to the normal permanent-change-of-station rules including temporary duty en route, found in 1 JTR, Chapter 4, Part D. Under Chapter 4, Part D, permanent-change-of-station allowances are payable for travel directed via temporary duty points en route. 1 JTR, paragraph M4151, as provided at the time of this travel.

Conclusion

Accordingly, Lieutenant Crocker is entitled to reimbursement for the travel in question under 1 JTR, Chapter 4, Part D. The voucher is being returned for payment on this basis.



Acting Comptroller General
of the United States