



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: John W. Lacey - Relocation Expenses - Short
Distance Transfer

File: B-228768

Date: March 14, 1988

DIGEST

An employee claims entitlement to relocation expenses in connection with a short-distance transfer and argues that the preferred commuting route increases the commuting distance by 15 miles. Under the Federal Travel Regulations, para. 2-1.5b(1), the agency must determine whether relocation of an employee's residence is incident to a short-distance transfer before reimbursement is allowed. Ordinarily, the commuting distance must increase by at least 10 miles. The 10-mile criterion is not an inflexible benchmark which, when exceeded, entitles the employee to a determination that the move was made incident to a transfer. Since the agency involved considered various factors, including the distances of the commutes and the various routings used in determining that a change of residence would not be incident to the transfer, we cannot find that that determination was clearly erroneous, arbitrary, or an abuse of discretion.

DECISION

Mr. John W. Lacey has appealed the action of our Claims Group dated June 26, 1987 (Z-2864095), which denied his request for entitlement to relocation expenses. He claims that his agency incorrectly determined that his transfer increased the commuting distance from his residence by less than 10 miles. Upon review, we find no basis to question the agency's determination to deny his relocation expenses for a short-distance transfer.

BACKGROUND

Mr. Lacey, an employee of the Department of Energy (DOE), was assigned to permanent duty at the San Francisco Operations Office in Oakland, California, and was offered a position at a DOE project office located at the Lawrence Livermore National Laboratory in Livermore, California.

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The offer of employment authorized Mr. Lacey relocation expenses. However, during a subsequent review of the position offer, and before Mr. Lacey incurred any relocation expenses, the agency determined that relocation expenses should not have been part of the offer. The agency offered Mr. Lacey the option of returning to his original position.

Mr. Lacey's residence is located in Newark, California, which is approximately 25 miles by highway from the Oakland office and from 26 to 40 miles from the Livermore office (distance varies depending on the route taken), an increase in commuting of from 1 to 15 miles. Should Mr. Lacey relocate to Livermore, he estimates that it would be a 5-mile commute to his office.

Subsequent to his transfer, Mr. Lacey requested another determination of his eligibility for relocation expenses. In a memorandum dated March 13, 1985, Mr. Lacey's request for relocation expenses was denied based on a determination by the San Francisco Operations Office of DOE that his proposed move from Newark to Livermore would not be incident to his transfer but rather for his own convenience. The agency indicated that the determination was based on an administrative review of all the circumstances in the case. As a result, the agency found that the commuting distance using usual or normal routes from his Newark residence to his new duty station did not meet the regulatory requirements for reimbursement of relocation expenses.

Our Claims Group affirmed the agency's denial of relocation expenses, and, in appealing from that determination, Mr. Lacey refers to two decisions of the Comptroller General he believes apply to his situation. He cites to our decision in Rodney T. Metzger, B-217916, Aug. 26, 1985, in which we held that it was not unreasonable for the agency to select routing using major interstate highways. Mr. Lacey notes that his preference is to use a major interstate highway rather than the backroads in his commute to the new duty station.

Mr. Lacey also cites to our decision in Craig R. Sheely, B-192142, Mar. 21, 1979, in which we stated that we did not believe the provisions of the Federal Travel Regulations at issue in that case were intended to require employees to travel the most direct route regardless of safety factors.

Mr. Lacey emphasizes his contention that the backroads route from his Newark residence to the new duty station is hazardous due to rockslides and mudslides.

OPINION

The payment of travel, transportation, and relocation expenses of transferred government employees is authorized under 5 U.S.C. §§ 5724 and 5724a (1982), as implemented by the Federal Travel Regulations, incorp. by ref., 41 C.F.R. § 101-7.003 (1986). The principles governing the short-distance relocations of transferred employees are contained in FTR para. 2-1.5b(1) (Supp. 4, Aug. 23, 1982). This section provides guidelines for agencies to follow in determining whether a transferred employee's short-distance relocation is incident to his change of duty station. In making this determination an agency is advised to consider various factors including the comparative commuting times and distances between the employee's old residence and old duty station, his old residence and new duty station, and his new residence and new duty station. This section further provides:

" . . . Ordinarily, a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station. Even then, circumstances surrounding a particular case (e.g., relative commuting time) may suggest that the move of residence was not incident to the change of official station."

We have consistently held that in short-distance relocations, the applicable statutes and regulations give an agency broad discretion in determining whether an employee's move from one residence to another is incident to the change of official station. 51 Comp. Gen. 187 (1971); Rodney T. Metzger, B-217916, Aug. 26, 1985; David E. Meisner, B-187162, Feb. 9, 1977. Unless such a determination is made by the agency, no basis for payment of the claim exists. 51 Comp. Gen. 187, supra. Generally, we will not overturn an agency's determination on this issue in the absence of a

showing that it was clearly erroneous, arbitrary or capricious. Rodney T. Metzger, B-217916, supra; Jack R. Valentine, B-207175, Dec. 2, 1982.

For example, in Metzger, cited above, there was a dispute between the employee and the agency as to the routings by which the distance between the employee's residence and his old and new duty stations should be measured. We held in Metzger that the agency's selection of a routing using major interstate highways was not unreasonable based on the facts in that case. However, this holding should not be read broadly, as Mr. Lacey would have us do, to endorse the use of interstate highways as the preferred routings to measure distance under FTR para. 2-1.5b(1). We have consistently held that this regulation does not establish fixed rules to be applied in all cases involving transfers between official stations which are relatively close to each other. Rather, the regulation gives the agency broad authority to make determinations concerning commuting patterns since the agency is in the best position to assess the situation at each of its installations. See Donald C. Cole, B-186711, Oct. 7, 1976; Stanley Jeffress Williams, B-184029, Jan. 26, 1976.

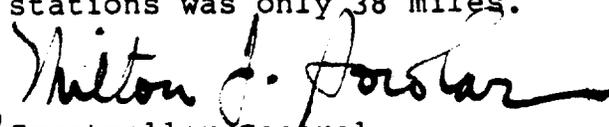
In the present case, the agency has made a determination that a relocation by Mr. Lacey from Newark to Livermore would not be incident to Mr. Lacey's transfer but rather would be for his personal convenience. Mr. Lacey has taken exception to this determination due to his belief that it is based on the agency's use of a hazardous backroads route to measure commuting distance. Mr. Lacey believes that the distance is more reasonably measured by travel on the highway he prefers to use, which would mean an increase of 15 miles in his commute.

None of the agency documents in the record indicate that the agency determination was based solely upon the backroads route specified by Mr. Lacey. Rather, the agency states that the determination that reimbursement for relocation expenses would not be allowed was based on all the information Mr. Lacey provided. The record further indicates that this information included a map which shows that there are four different routings possible between Newark and Livermore.

Moreover, even when the 10-mile criterion is met, the agency has broad discretion to consider other circumstances surrounding a particular case to determine whether a move is incident to the change of official station. We do not view the precise difference between the distances of the old and new commutes as an inflexible benchmark which, when exceeding 10 miles, entitles the employee to a determination that the move was made incident to a transfer. Rather, it is one factor an agency should consider in making that determination. See Pradeep Sinha, B-219209, Apr. 29, 1986.

Therefore, we conclude that, in this situation, the agency involved has considered various factors, including the distances of the commutes, and has determined that a change of residence by Mr. Lacey would not be made incident to his transfer. On the record before us, we cannot say that the denial of Mr. Lacey's request for relocation expenses by the agency was clearly erroneous, arbitrary or an abuse of discretion. Our Claims Group's determination affirming that denial is sustained.

Regarding Mr. Lacey's reference to our decision in Craig R. Sheely, B-192142, supra, we note that the holding in that case is not relevant to the facts in Mr. Lacey's case. In Sheely, the employee was seeking reimbursement for mileage, transportation of household goods, and a temporary quarters expenses allowance under FTR paras. 2-2.1, 2-4.1c(4), and 2-5.2h in connection with a transfer which, over the usually traveled route, involved a distance of 106 miles. We held in that case that the employee was entitled to reimbursement for these expenses based on the distance between duty stations as measured by the usually traveled route, even though the direct route between duty stations was only 38 miles.

for 
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