



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Alanna M. Karels & Pamela S. Lynch - Temporary
Duty Travel Overseas - Rest Period Per Diem
Entitlement - Constructive Travel

File: B-241953

Date: July 30, 1991

DIGEST

1. An employee, who traveled by an indirect route and combined an extended period of annual leave with temporary duty travel from Anchorage, Alaska, to Oklahoma City, Oklahoma, and return, was not authorized a rest stop under 41 C.F.R. § 301-7.6(c)(6)(i) since the scheduled travel, if performed by a usually traveled route, would have been less than 14 hours. However, the employee was permitted a reasonable rest period with per diem at the temporary duty location before reporting for duty under 41 C.F.R. § 301-7.6(c)(6)(v). Per diem may be paid on a constructive basis beginning the last quarter of the day the employee could have left to arrive at the temporary duty station the evening before temporary duty was to begin and ending on the quarter day the employee would have arrived home had return travel been performed timely and expeditiously.

2. An employee performed temporary duty travel from Bethel, Alaska, to Oklahoma City, Oklahoma, by usually traveled route several days prior to the date travel was scheduled, and returned home timely and expeditiously immediately following completion of the temporary duty assignment. Since scheduled outbound travel was in excess of 14 hours, a rest stop with per diem could have been authorized under 41 C.F.R. § 301-7.6(c)(6)(i) at an intermediate point. Even though a rest stop was not authorized under 41 C.F.R. § 301-7.6(c)(6)(v), the employee was permitted a reasonable rest period with per diem at the temporary duty location before reporting for duty there. On a constructive basis, per diem may be paid beginning the last quarter of the day the employee could have reasonably left to arrive at the temporary duty station the day before temporary duty was to begin and ending on the quarter day the employee arrived home following the temporary duty assignment.

3. Under the provisions of the Federal Travel Regulation governing authorized rest stops for travel where one or more duty points are outside the continental United States, 41 C.F.R. § 301-7.6(c)(6)(i)-(v) (1989), a reasonable rest

period, not to exceed 24 hours, may be permitted as a matter of agency discretion at destination before reporting for duty when a rest stop is not authorized en route even if annual leave is taken en route.

DECISION

This decision is in response to a request from an Authorized Certifying Officer, Federal Aviation Administration (FAA), Department of Transportation,^{1/} concerning the entitlement of two employees to rest periods incident to temporary duty travel from separate locations in Alaska to Oklahoma City, Oklahoma. We conclude that both employees are entitled to a reasonable rest period after arriving at their temporary duty location before reporting for duty.

In connection with those two vouchers, we are asked whether the five separate clauses in the regulations governing per diem entitlement for rest stops should be considered exclusive of each other or whether should they be read in combination. Further, we are asked whether a rest period may be authorized when annual leave is taken en route to a temporary duty location, and whether a rest period may be authorized for a period in excess of 24 hours.

OPINION

The regulation governing per diem entitlement for travel to, from, between, or within locations outside the continental United States (CONUS), including permissible rest stops, is contained in section 301-7.6 of the Federal Travel Regulation (FTR), as amended.^{2/} The basic conditions which must be met by the employee before the agency may authorize a rest stop are set forth in section 301-7.6(c)(6) of the FTR. Clause (i) of that section states the basic rule, as follows:

"(i) When travel is direct between duty points which are separated by several time zones and at least one duty point is outside CONUS, a rest period

^{1/} Ms. Terry L. Saldana, Anchorage, Alaska. Reference AAL-42C1.

^{2/} 41 C.F.R. § 301-7.6 (Amendment 3, Sept. 15, 1989). These provisions have been resectioned without substantive change and are currently found in 41 C.F.R. § 301-7.11(a)-(e) (Amendment 10, Oct. 12, 1990). There are no companion provisions in the FTR authorizing rest stops when temporary duty travel is performed wholly within the continental United States.

not in excess of 24 hours may be authorized or approved when air travel between the duty points is by less-than-premium-class accommodations and the scheduled flight time (including stopovers of less than 8 hours) exceeds 14 hours by a direct or usually traveled route."

Clauses (ii) through (v) of section 301-7.6(c) are to be read in conjunction with clause (i) and serve to further qualify when and to what extent a permissible rest period described in clause (i) may be approved. Clause (v) provides that in cases where an intermediate rest stop is precluded because of scheduling or when a rest stop is not authorized, "it is recommended that the employee be scheduled to arrive at the temporary duty point with sufficient time to allow a reasonable rest period before reporting for duty." Thus, where a rest stop is not authorized under clause (i) because scheduled travel time does not exceed 14 hours, as a matter of agency discretion a reasonable rest period may be permitted the employee at destination before reporting for duty.

We have held that government employees are required to perform official travel as expeditiously as if they were traveling on personal business, even though travel may have to be performed on nonworkdays, 46 Comp. Gen. 425 (1966). In considering whether an employee may be paid additional per diem in connection with early departure and delayed return, we have held that the per diem costs associated with the travel actually performed are to be compared to what the costs would have been had the employee traveled expeditiously, on a constructive basis. 56 Comp. Gen. 847, 850 (1977). See also 41 C.F.R. § 301-2.5(b) regarding indirect or interrupted travel.

Based on the foregoing, the travel claims of the two employees are analyzed as follows:

Ms. Alanna M. Karels

Ms. Karels, an employee of the FAA stationed in Anchorage, Alaska, was authorized temporary duty travel to Oklahoma City, Oklahoma, for training from July 5 to September 4, 1990, with travel to begin on or about July 4, 1990. She was scheduled to leave Anchorage at 7 a.m., Alaska time, on July 4, and to arrive in Oklahoma City, Oklahoma, at 9:20 p.m., central time, the same day. The elapsed time for that scheduled flight, including stopovers in Seattle and Salt Lake City, is 11 hours and 20 minutes. At the conclusion of her training, she was scheduled to leave Oklahoma City at 8:45 a.m., central time, on September 5, 1990, and to arrive in Anchorage at 2 p.m., Alaska time, the same day.

However, Ms. Karels did not perform travel in that manner. She chose to combine an extended period of annual leave with her temporary duty assignment and began her trip on June 8, 1990, traveling to Seattle, Washington; Minneapolis-St. Paul, Minnesota; and Memphis, Tennessee, before continuing on to Oklahoma City, Oklahoma, where she arrived on the afternoon of July 3, 1990.

Ms. Karels completed her training on September 4, 1990, and began her return trip to Anchorage, Alaska, on September 5, 1990. Again, instead of taking the most direct routing to Anchorage, she traveled from Oklahoma City, Oklahoma, to Memphis, Tennessee, then to Los Angeles, California, and Seattle, Washington. She took a day of annual leave in Seattle on September 6, 1990, and began the last leg of her return trip to Anchorage on September 7, 1990, arriving in Anchorage that same day.

Ms. Karels's travel orders provided that her travel would be scheduled so that she would arrive at Oklahoma City in sufficient time to allow a reasonable rest period there before reporting for duty. Her claim for per diem for a rest period was disallowed by the agency because she performed indirect travel. She has appealed that disallowance.

Ms. Karels's scheduled trip from Anchorage to Oklahoma City, by usually traveled route would have been performed in less than 14 hours. Thus, the elapsed time of her scheduled travel to Oklahoma City was not of sufficient duration to qualify her for a rest stop under clauses (i) and (ii) of section 301-7.6(c)(6) of the FTR.

Notwithstanding that conclusion, clause (v) recommends that the agency schedule travel in such a way so as to allow a traveler a reasonable rest period at the temporary duty point before reporting for duty. Since Ms. Karels was scheduled to arrive in Oklahoma City at 9:20 p.m., central time, on July 4, 1990, had she not taken indirect routing, it is our view that the period after 9:20 p.m., until she reported for class the following day, qualified as a reasonable rest period under clause (v) of section 301-7.6(c)(6) of the FTR. Therefore, on a constructive basis, her per diem, including travel per diem on a quarter day basis,^{3/} would begin effective the second quarter of July 4, 1990, and end on the third quarter of September 5, 1990.

^{3/} Section 301-7.6(c)(2)(iii) of the FTR (currently 41 C.F.R. § 301-7.8(e) (Amendment 10, Oct. 12, 1990)).

Pamela S. Lynch

Ms. Lynch, an employee of the FAA stationed in Bethel, Alaska, was authorized temporary duty travel to Oklahoma City, Oklahoma, for training from June 6 to June 26, 1990, with travel scheduled to begin June 4, 1990, to allow her a reasonable rest period in Oklahoma City, Oklahoma, prior to reporting for duty. She was scheduled to travel that day, departing Bethel at 7:55 p.m., Alaska time, with a 5-hour connecting flight layover in Anchorage, Alaska, and arriving in Oklahoma City at 2:15 p.m., central time, on June 5, 1990. The elapsed time for the scheduled trip, including her connecting flight stopover in Anchorage and stopovers in Seattle and Salt Lake City is approximately 16 hours and 20 minutes.

According to Ms. Lynch's claim voucher itinerary, while she performed the travel by the scheduled routing, she advanced her outbound travel by several days and departed Bethel, Alaska, on June 1, 1990. With the 5-hour connecting flight stopover in Anchorage, she arrived in Oklahoma City, Oklahoma, at 2:15 p.m., central time, on June 2, 1990.

Ms. Lynch completed her training on June 26, 1990, and began her return trip at 8:45 a.m., central time, on June 27, 1990. She arrived in Bethel, Alaska, at 7:55 p.m., Alaska time, the same day. She claimed per diem for the period June 4 through June 27, 1990. Part of the claim representing the period prior to the date classes began was disallowed by the agency because it was found to be excessive. Ms. Lynch has appealed that disallowance.

Although Ms. Lynch performed travel by the usually traveled route from Bethel, Alaska, to Oklahoma City, Oklahoma, several days early, her elapsed travel time to Oklahoma City was the same as it would have been had she begun her travel on June 4, 1990. Since the elapsed time of travel exceeded 14 hours, under clauses (i) and (ii) of section 301-7.6(c)(6) of the FTR, the agency could have authorized a rest stop for her at some intermediate point in her journey, not to exceed 24 hours. However, the agency did not do so. Instead, the agency scheduled her travel so that she would arrive in Oklahoma City, Oklahoma, at 2:15 p.m., central time, on June 5, 1990. It is our view that the period after 2:15 p.m., central time, when she would have arrived in Oklahoma City on June 5, 1990, had she not advanced her travel, until she reported for class the following day qualified as a reasonable rest period under clause (v) of section 301-7.6(c)(6) of the

FTR. Therefore, on a constructive basis, her entitlement to per diem, including travel per diem on a quarter day basis, began effective the fourth quarter of June 4, 1990, and terminated effective the fourth quarter of June 27, 1990.

for *William J. Howler*
Comptroller General
of the United States