



Comptroller General
of the United States
Washington, D.C. 20548

4311210

Decision

Matter of: Dislocation allowance for certain members above the pay grade of E-6 who elect not to occupy government quarters

File: B-252098.2

Date: October 18, 1993

DIGEST

A member above the pay grade of E-6 without dependents who elects not to occupy assigned government quarters on a ship as authorized in 37 U.S.C. § 403 is entitled, subject to the limitations found in 37 U.S.C. § 407, to a dislocation allowance when he makes a permanent change of station move.

DECISION

We have been asked whether a member above the pay grade of E-6 without dependents making a permanent change of station move who elects not to occupy assigned government quarters on a ship at the new duty site is entitled to a dislocation allowance (DLA). We are also asked what the time limit is for making the election not to occupy government quarters for payment of DLA.¹ For the reasons presented below, a DLA may be paid to such a member:

Under 37 U.S.C. § 403 a member of a uniformed service who is entitled to basic pay is entitled to a Basic Allowance for Quarters (BAQ), except as otherwise provided by law. Because BAQ is intended to reimburse a member for expenses incurred in acquiring housing, a member who is assigned rent-free government quarters is generally not entitled to BAQ. However, a member above the pay grade of E-6 who is without dependents is authorized, subject to military regulations, to elect not to occupy government quarters assigned to him and to receive BAQ instead.

¹The decision was requested by an authorized certifying officer of the United States Coast Guard, and the Per Diem, Travel and Transportation Allowance Committee has assigned Control No. 93-1 to the request.

With certain exceptions, a member without dependents is entitled under 37 U.S.C. § 407(a)(4)(A) to a DLA if he moves to a new permanent duty station where he is not assigned government quarters. A DLA is intended to help defray the costs of the member's move.

The original law which authorized some members to elect not to occupy government quarters applied only to officers above O-3. See Pub. L. No. 88-132, 77 Stat. 210 (1963). The legislative history of that law indicates that Congress intended that an officer who elected not to occupy government quarters be treated as if government quarters were not available for him. See S. Rep. No. 387, 88th Cong. 1st Sess. (1963), reprinted in 1963 U.S. Code, Cong. and Admin. News 912, 946. Authority to elect not to occupy government quarters was extended to members above E-6 in 1980. See Pub. L. No. 96-579, 94 Stat. 3359. (That law actually referred to members above F-6, which was amended to E-6 in 1981. See Pub. L. No. 97-22, 95 Stat. 124.)

Prior to action by Congress in 1967, a DLA was payable only to a member whose dependents made an authorized move in connection with his permanent change of station. In that year the law was extended to cover a member without dependents who is transferred to a permanent duty station where he is not assigned government quarters. See Pub. L. No. 90-207, 81 Stat. 649 (1967). The DLA was extended to members without dependents because they incur "the same general type of additional expenses" when not furnished government quarters as members with dependents incur, and thus it was believed that the purpose of the DLA would be better served by including such members. See H.R. Rep. No. 787, 90th Cong., 1st Sess. 8 (1967).

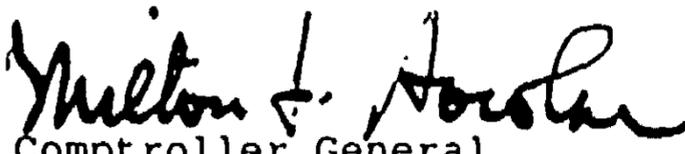
In 59 Comp. Gen. 376 (1980) we posed no objection to an amendment to the Joint Travel Regulations (JTR) expanding the definition of the term "member without dependents" for DLA purposes to include a member whose dependents are authorized to relocate with him when he is transferred to a new permanent duty station but do not relocate with him. See the former 1 JTR para. M9001-2, now 1 Joint Federal Travel Regulations (JFTR) para. U5610-B. In our decision we said that we had in the past interpreted 37 U.S.C. § 407 to allow payment of a DLA in circumstances not specifically covered by the statute when payment would be in keeping with its purpose and accordingly would do so in that situation.

Similarly, this Office would not object to payment of a DLA to members above E-6 without dependents who elect not to occupy government quarters on a ship. They are authorized to make an election under 37 U.S.C. § 403, not to occupy

assigned government quarters and receive BAQ. The legislative history of that statute indicates that for BAQ purposes they are to be treated as if quarters are not available for them. While 37 U.S.C. § 407 does not specifically deal with members in their situation, payment of a DLA would be in accord with the spirit of the law, for once they make the election not to occupy government quarters they incur the same types of expenses as other members who receive a DLA. See 59 Comp. Gen. 376, supra. Accordingly, it is our view that DLA should be paid in such circumstances.

Concerning time limits on making an election not to occupy government quarters and still be entitled to DLA, the JFTR provide that temporary occupancy of government quarters upon arrival at a new permanent duty station does not preclude a member from entitlement to a DLA if the occupancy does not exceed 60 days, with a possible extension for another 60 days if the situation warrants. See 1 JFTR para. U5605. Occupancy of government quarters for a longer period would appear to preclude payment of a DLA.

The submission is answered accordingly.

for 
Comptroller General
of the United States