



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

Decision

Matter of: Steven B. Wirth
File: B-249337
Date: May 6, 1993

DIGEST

1. Transferred employee who was authorized to move his household goods under the commuted rate method is entitled to such reimbursement even though a rate comparison after-the-fact shows that the actual expense government bill of lading is less expensive. Travel orders may not be modified retroactively so as to increase or decrease the rights which have become fixed when the travel has been performed.

2. Employee's request for reimbursement of temporary quarters subsistence expenses, *i.e.*, meals and miscellaneous expenses for boarding his children with a friend at a site away from his permanent duty station is allowed to the extent that the agency determines it is reasonable. The boarding constitutes unusual circumstances since the employee was a single parent, and the boarding was necessitated by the transfer.

DECISION

The issues presented are whether a transferred employee may be reimbursed under the commuted rate method for a shipment of his household goods and whether he may be reimbursed temporary quarters subsistence expenses (TQSE) for his dependent children at other than his permanent duty station.¹ For the reasons that follow, we determine that Mr. Wirth may be reimbursed at the commuted rate and that his request for TQSE is allowed.

Shipment of Household Goods

Mr. Wirth was issued travel orders on December 5, 1991, authorizing his transfer from Fort Lewis, Washington, to Fort Monmouth, New Jersey. The travel orders specifically

¹The request was submitted by M.D. Greenblatt, Acting Director of Accounting, Defense Finance and Accounting Service, Indianapolis, Indiana.

stated that the shipment of household goods was authorized by the commuted rate system in accordance with Volume 2 of the Joint Travel Regulations (2 JTR). The travel order was later amended on January 10, 1992, to change the destination to Fort Campbell, Kentucky.

In January 1992, Mr. Wirth moved his household goods to his new duty station. He obtained weight certificates and has claimed the commuted rate for 17,760 pounds at an estimated cost of \$16,676.74. The Fort Campbell Finance and Accounting Officer denied Mr. Wirth's claim on the basis that 2 JTR para. C8001-4c(3) requires a cost comparison between the actual expense government bill of lading (GBL) method and the commuted rate method of shipping household goods prior to the shipment. The required cost comparison was not done prior to shipment, and the Finance Officer contends that it would have indicated that the GBL method should have been utilized at a cost to the government of \$9,217.44.

The submission also refers to decision Donald F. Daly, B-209873, July 6, 1983, as support for the conclusion that the claim should be denied. In Daly, the employee moved himself and reimbursement was limited to his actual out-of-pocket expenses for which he had receipts. On the other hand, the agency states that Wilson Barber, B-241928, Feb. 7, 1991, supports payment of the claim. In Barber, the employee was authorized and reimbursed at the commuted rate in spite of the fact that an after-the fact cost study indicated that the actual expense method of shipment was less expensive. The agency is unclear as to which decision governs and requests that this Office determine the correct method for reimbursing Mr. Wirth.

As a general rule, legal rights and liabilities with regard to travel expenses vest under the statute and regulations when the travel is performed. As a result, travel orders may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed at the time the travel has been performed, except where there are errors apparent on the face of the original orders or where all the facts and circumstances surrounding the issuance of the original orders clearly demonstrate that some provision which was previously determined and definitely intended had been inadvertently omitted in their preparation. Wilbert D. Hammers, B-234696, Nov. 3, 1989.

There does not appear to be any error in this case since Mr. Wirth was specifically authorized to ship his household goods by the commuted rate method. See Charles E. Robertson, B-242457, May 24, 1991. The Daly case, B-209873, July 6, 1983, cited by the Finance Officer, is distinguishable since in that case the employee, who worked for a

civilian executive agency, was reimbursed for his actual expenses under a provision of the Federal Property Management Regulation which limits such reimbursement when an employee decides to move himself rather than utilize the government bill of lading method. The provision is not applicable to Department of Defense employees. Charles E. Robertson, supra, at 3, fn. 4.

Further, the General Services Administration has advised that the provision in its Federal Travel Regulation, which provides for a cost comparison, 41 C.F.R. 302-8.3(c)(4) (1992), does not contemplate that an agency should obtain a cost comparison after a household goods shipment has been completed merely for the purpose of limiting reimbursement to the employee. John S. Phillips, 62 Comp. Gen. 375 (1983). See also Wilson Barber, Jr., B-241928, supra.

Accordingly, Mr. Wirth's claim for reimbursement at the commuted rate may be allowed. Charles E. Robertson, B-242457, May 24, 1991, supra; Wilbert D. Hammers, B-234696, Nov. 3, 1989, supra.

However, there is another point that needs to be discussed. Mr. Wirth has advised us that he purchased a truck to transport his household goods and an auto trailer to transport his privately owned vehicle. In this regard the weight certificates show that both the weight of the truck and the auto trailer were used in determining the net weight of Mr. Wirth's household goods. Since Mr. Wirth used the auto trailer to transport his privately owned automobile instead of to ship his household goods, reimbursement would not be authorized because the transportation of an automobile is not permitted. See 5 U.S.C. § 5727(a) (1988); Charles E. Robertson, B-242457, supra; Mark A. Smith, B-228813, Sept. 14, 1988. Therefore, the net weight of the auto trailer and of Mr. Wirth's privately owned vehicle must be deducted from the total net weight in order to determine his proper reimbursement.

Temporary Quarters Subsistence Expenses

Mr. Wirth traveled with his two children (aged 4 and 6) from Fort Lewis to Wautoma, Wisconsin, where he left them with a friend. Mr. Wirth states that he is a single parent, and he was forced to do this for several reasons, one of which was the likelihood of being unable to locate adequate child care providers in a community he was wholly unfamiliar with. Mr. Wirth has requested reimbursement for \$125 per week he agreed to pay his friend for room, board, and laundry, under the provisions of 2 JTR para. C13001-1b, which provides for reimbursement for occupancy of temporary quarters in other locations under unique circumstances. The Finance Officer denied Mr. Wirth's claim on the basis that Wisconsin is not

in close proximity to the old or new duty station, and 2 JTR C4555-2c provides that no lodging expenses are payable when the employee obtains lodging from friends or relatives.

This Office has allowed reimbursement for TQSE at places other than an employee's official duty station when unusual circumstances prevent the employee's dependents from occupying temporary quarters and the occupation is incident to the transfer. Henry J. Kessler, B-185376, July 23, 1976; B-179556, May 14, 1974. We believe that Mr. Wirth's circumstances qualified him for reimbursement under this exception. He is a single parent of two young daughters, ages 4 and 6, and his change of permanent duty station necessitated his boarding his daughters with a friend.

Further, although 2 JTR C4555-2c provides that no lodging expenses are payable when the employee obtains lodging from friends or relatives, we believe that Mr. Wirth can be reimbursed a reasonable amount for meals and miscellaneous expenses for his daughters upon obtaining proof from him to the extent that his friend expended additional amounts on behalf of the daughters. Robert J. Gofus, 66 Comp. Gen. 347 (1987); Karen S. Currier, B-249180, Nov. 17, 1992; Carlos A. W. DiBella, B-198336, Feb. 13, 1981. Accordingly, Mr. Wirth may be reimbursed for TQSE for his daughters to the extent the agency determines it is reasonable.

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General Counsel