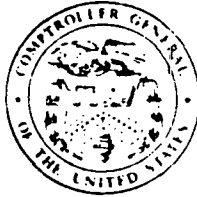


DECISION



95327
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548
50562

FILE: B-182643

DATE: FEB 19 1975

MATTER OF: Reimbursement for dependent travel and shipment of household goods - Technical Sergeant Edward L. Hudson, Jr., USAF (Retired)

- DIGEST: 1. Member who transported his dependents and shipped his household goods at personal expense from Goldsboro, North Carolina, to Phenix City, Alabama, in July 1973 prior to his retirement on September 1, 1974, and issuance of retirement orders on October 25, 1973, is not entitled to reimbursement for dependent travel and for shipping costs.
2. Member may not be reimbursed for dependent travel or household goods shipping costs based upon erroneous information received from transportation personnel, since in the absence of specific statutory authority the United States is not liable for negligent or erroneous acts of its officers, agents, or employees committed in the performance of official duties.

This action is in response to letter dated September 12, 1974, from Technical Sergeant Edward L. Hudson, Jr., USAF (Retired), in effect requesting reconsideration by this Office of a Transportation and Claims Division, General Accounting Office, settlement dated July 3, 1974, which disallowed his claim for reimbursement of costs incurred in the transportation of his dependents and for shipment of his household goods in July 1973, incident to his retirement from the United States Air Force, effective on September 1, 1974.

The record shows that Sergeant Hudson requested and received permission from the Traffic Management Officer, Seymour Johnson Air Force Base, North Carolina, on June 7, 1973, to rent a trailer or truck for the purpose of transporting his personal property, with the understanding that reimbursement for expenses connected with this movement would be limited to actual costs incurred subject to a maximum of what the Government would have paid had it arranged to transport these same goods. However, on

B-182643

June 30, 1973, the member's household goods were loaded at his residence in Goldsboro, North Carolina, by Atlas Van Lines and were delivered to Phenix City, Alabama, on July 2, 1973. Upon delivery the \$1,340.05 cost of this movement was paid by Sergeant Hudson. His dependents traveled by privately owned vehicle from North Carolina to Alabama on July 1 and 2, 1973.

The record further shows that on August 2, 1973, Sergeant Hudson executed AF Form 1160, Application for Voluntary Retirement, in which he requested retirement on September 1, 1974. On November 11, 1973, the member completed a certificate for home of selection which indicated that he had elected and traveled to Phenix City, Alabama, as his home of selection upon retirement. Department of the Air Force Special Order Number AC-31127, dated October 25, 1973, relieved him from active duty on August 31, 1974, with retirement effective on September 1, 1974.

Sergeant Hudson contends that he is entitled to reimbursement for the travel of his dependents and costs incurred in the transportation of his household goods because he was advised by transportation squadron personnel at Seymour Johnson Air Force Base, North Carolina, that he might move his family and household goods from his last duty station to his home of selection prior to his retirement and that upon execution of the proper forms, he would be eligible for reimbursement. His commanding officer, Colonel George P. Tynan, has indicated his belief that the member received bad information and advice.

Section 406(g), title 37, United States Code (1970), provides in pertinent part that under uniform regulations prescribed by the Secretaries concerned, a member who is retired is entitled to the transportation of his dependents and household effects to his home of selection. In accord with the foregoing, 1 Joint Travel Regulations (1 JTR) para. M7010-1a provides that a member on active duty will be entitled to the transportation of his dependents from his last permanent duty station to his home of selection, and 1 JTR para. MS260-1 provides for the shipment of the member's household goods to the home of selection.

In regard to the transportation of dependents at Government expense upon a permanent change of station, subparagraph 8 (change 236, October 1, 1972) (currently subparagraph 9) of 1 JTR

B-182643

para. M7000 provides that transportation at Government expense is not authorized for the travel of dependents performed at personal expense prior to the issuance of permanent change-of-station orders or prior to the receipt of official notice that such orders would be issued. Reference is made to subparagraph M7003-4 of the regulations which provides that a member who is entitled to transportation of dependents in accordance with paragraph M7000 may be authorized a monetary allowance in lieu of transportation in kind for travel of dependents at personal expense prior to the issuance of permanent change-of-station orders, provided the voucher is supported by a statement of the permanent change-of-station order-issuing authority or his designated representative, that the member was advised prior to the issuance of the orders that the orders would be issued.

The provisions of the regulations concerning travel in advance of orders have reference to instances where all provisions and requirements of the orders have been completely and finally determined and all that remains to be done is the writing of the orders. In this regard, it consistently has been held that general information as to the time of eventual release from active duty or of an impending change of station or that orders effecting a permanent change of station are anticipated does not meet the requirements of the law and regulations. See 34 Comp. Gen. 241 (1954); and decision B-169612, June 29, 1970.

Additionally, in regard to retirement orders, para. 87c, Air Force Pamphlet 211-1-12, Air Force Guide for Retired Personnel, dated February 1, 1966, indicates that the certificate required by para. M7000-8, 1 JTR, is not issued incident to retirement, and, therefore, travel of dependents before the issuance of retirement orders precludes payment of a travel allowance.

Accordingly, payment for the dependent travel performed July 1 and 2, 1973, over a year prior to the member's retirement on September 1, 1974, is not authorized.

Subparagraph M8015-1, 1 JTR (change 244, June 1, 1973), provides that the transportation of household effects is not authorized prior to the issuance of orders except in case of emergency, exigency of the service, or when required by service necessity, as determined by the appropriate authority of the uniformed service concerned.

B-182643

Air Force Manual 75-4, Movement and Storage of Personal Property, November 13, 1970, paragraph 1-16a(1), provides that shipment of household goods prior to issuance of orders incident to retirement may be approved by "The Director of Personnel Program Actions, Asst DCS/Personnel for Military Personnel, HQ USAF, USAFMPC (DPMA), Randolph AFB, TX 78148." This provision indicates that voluntary retirement orders are published within 48 hours after the application is approved and medical clearance is received. However, when publication of retirement orders is delayed and the member would experience severe personal and financial hardship due to lack of authority to ship personal property, requests for authority for such shipment would be considered but, normally authority for such shipment would not be issued more than 90 days in advance of the effective date of retirement.

The member's application for voluntary retirement dated August 2, 1973, which requested retirement on September 1, 1974, was granted on October 25, 1973. However, the member's household goods were moved at personal expense in July 1973 over a year before the date of his retirement. In such circumstances, in accord with the foregoing, there is no authority for reimbursement for the household goods movement. See decision B-169612, supra.

It has been held consistently that the receipt by one dealing with a Government official of erroneous information, which was relied upon by the recipient to his detriment, does not afford a legal basis for a payment from appropriated funds. It is well established that in the absence of specific statutory authority, the United States is not liable for the negligent or erroneous acts of its officers, agents, or employees, even though committed in the performance of their official duties. See 44 Comp. Gen. 337 (1964) and 53 Comp. Gen. 834 (1974).

While it is regrettable that the member may have been misled by erroneous information, that fact is insufficient to authorize payment from appropriated funds.

Consequently, the action of the Transportation and Claims Division in determining that Sergeant Hudson is not entitled to reimbursement for costs incurred in the transportation of his dependents and shipment of his household goods must be sustained.

R. F. HELLER

Comptroller General
of the United States