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DECISION

*Hordell
Air Force*

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

FILE: B-187754

DATE: JAN 3 1977

MATTER OF:

**Shirley Kallish - Return Travel Expenses
From Overseas Assignment**

DIGEST:

Employee who resided in Florida, was recruited by Air Force in 1962 for assignment in Guam. Later she served in Alaska with NEA and in Morocco with Navy. After 4-year tour of duty in Maryland she served in La Maddalena, Sicily. She is liable for excess travel and transportation costs from La Maddalena to Florida, instead of Maryland, incident to separation since she resided there immediately before last overseas assignment and signed various documents incident to such assignment indicating Maryland was home residence.

This action concerns the appeal of Shirley Kallish, a former employee of the Department of the Navy, from a settlement of our Claims Division holding that she is indebted to the Government for excess travel and transportation costs incident to her return from Italy to the United States for separation from her employment. Miss Kallish argues that her place of residence for the purpose of travel and transportation entitlements is Miami Beach, Florida, not Rising Sun, Maryland, as stated in the settlement.

Miss Kallish states that she established her permanent residence in Miami Beach in 1951. In 1962 she was recruited for service in Guam by the Department of the Air Force. Later she served with the Department of Health, Education, and Welfare in Alaska and with the Department of the Navy in Morocco. In June 1970 she was transferred to the U.S. Navy Training Center, Bainbridge, Maryland. Miss Kallish states that, incident to the closing of that installation, she was forced to accept, for economic reasons, a transfer to the U.S. Naval Support Office, La Maddalena, Sardinia, Italy. Incident to Miss Kallish's retirement a travel order was issued November 8, 1974, authorizing travel from La Maddalena to Rising Sun, Maryland. Miss Kallish's request for an amendment of the travel order to read Miami Beach instead of Rising Sun was granted in January 1975. Miss Kallish's claim for reimbursement of certain travel expenses was sent to our Claims Division for adjudication because of the retroactive modification of the travel order.

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In response to a request for further information by our Claims Division the Navy Regional Finance Center advised that, incident to the assignment to La Maddalena, Miss Kallish signed a transportation agreement on December 10, 1973, and a certificate of residence on January 9, 1974, indicating Rising Sun as her actual residence. She also signed a booking request for travel from La Maddalena to Maryland on October 24, 1974, for the purpose of return travel to the continental United States for retirement. On the basis of the record the Navy stated that Rising Sun was her actual residence and that travel and transportation expenses should be limited to constructive costs from La Maddalena to that location. Our Claims Division accordingly settled Miss Kallish's claim on that basis and determined that she was indebted to the Government in the net amount of \$187.41 (\$276.93 unrecovered costs less allowable costs of \$89.52).

Section 5722 of title 5, United States Code (1976), provides for the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of his assignment to duty outside the United States. Neither the statute nor the applicable regulations - Federal Travel Regulations (FTR 101-7) (May 1973) - define the phrase "place of his actual residence at the time of his assignment to duty outside the continental United States." However, FTR para. 1-1.5g(3)(c) effective May 1, 1973, sets forth the factors to be considered in determining the place of residence. In this connection we have consistently held that the determination of the place constituting the "actual residence" is primarily an administrative responsibility which must be made upon the facts and circumstances in each individual case. 35 Comp. Gen. 244 (1955). Also, ordinarily our Office would not question any reasonable administrative determination as to place of actual residence. 35 Comp. Gen. 244 (1955) at 246.

In the instant case the record indicates that Miss Kallish resided in Maryland approximately 4 years immediately before her assignment to La Maddalena. Moreover, in 1973 and 1974 she signed an employment agreement and two other documents which indicated that her residence was at Rising Sun. On the record before us we find there is no basis to disagree with the administrative determination as to Miss Kallish's place of residence.

E-16773A

**Accordingly, we surtain the settlement action of our
Class Division.**

R.F.KELLER

**Deputy Comptroller General
of the United States**