

DECISION



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

10,506

FILE: B-193814

DATE: June 18, 1979

MATTER OF: *per me*
Marion F. Clagg - [Change of duty station and
Delay in issuing travel orders]

DIGEST: Employee was reassigned from Scurry, Texas, to Dallas, Texas, a relatively short distance away. However, permanent change of station travel order was not delivered within 2 years of reporting for duty due to budgetary constraints and administrative errors. The employee did not move when he was reassigned and now seeks authority to move his family at Government expense. Authority may not be given because neither this Office nor the agency may waive or modify time limitations prescribed by statutory regulations. *There is a 2-year limitation within which travel, transportation and relocation must occur.* *with the 2-year limitation*

By letter of December 29, 1978, Mr. George B. Fineberg, Chief, Financial Systems Division, AAA-400, Office of Accounting and Audit, Federal Aviation Administration, Department of Transportation, *DLG 01856* requests an advance decision concerning reimbursement of expenses to be incurred by Mr. Marion F. Clagg, an employee of that agency, pursuant to a permanent change of station.

On October 23, 1975, Mr. Clagg was notified of his reassignment from Scurry, Texas, to Redbird Airport, Dallas, Texas, a relatively short distance away. He reported for duty at Redbird Airport on November 23, 1975, but, apparently due to the lack of travel orders and in view of the short distance involved, he did not relocate his home. His letter of reassignment informed him that since the reassignment was in the interest of the agency allowable travel and transportation costs involved in the change of headquarters would be borne by the agency.

Upon receipt of the reassignment letter Mr. Clagg executed the necessary forms submitting them immediately following their completion. A permanent change of station (PCS) travel order was prepared and signed by the sector manager on June 17, 1976. However, due to budgetary constraints a quota system was in effect on the number of PCS moves that could be accomplished each quarter and the PCS order was not issued. No further action was taken on this matter until May 4, 1977, at which time a second PCS travel order was prepared and signed by the sector manager. Additional information was supplied on August 19, 1977, and the PCS move was approved on September 15, 1977. The approval was received in the sector on September 22, 1977, with Mr. Clagg being

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verbally advised of this on September 30, 1977. A copy of the travel order was received by him on October 11, 1977. He then queried the sector headquarters as to the effective date of the travel order since it was signed by the sector manager on May 4, 1977. As a result of this and subsequent inquiries it was learned that the time limit for reimbursement of transportation relocation expenses had run out on the PCS move since more than 2 years had elapsed since he reported for duty at Dallas.

Mr. Clagg's PCS travel orders state that he is authorized to be reimbursed for necessary expenses as provided in the DOT Travel Manual or Department of State Foreign Affairs Manual. Time limits for travel and transportation are covered by paragraph 324, DOT Order 1500.6 (chg. 6, May 6, 1976) which states in pertinent part, as follows:

"All travel (not subject to the Foreign Affairs Manual) including that for the immediate family, and transportation, including that for household goods and personal effects allowed under this section, should be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed two years from the effective date of the employee's transfer or appointment, except that:

* * * * *

"c. See Chapters 5 and 6 for additional time limits on claims for certain expenses."

As can be seen from above the two-year time limit running from the effective date of the employee's transfer or appointment is modified by the time limits found in Chapters 5 and 6. The relevant provisions in those chapters are paragraph 522a, DOT Order 1500.6 (August 2, 1972) and 640d, DOT Order 1500.6 (chg. 2, June 19, 1973). These paragraphs provide, as follows:

"All travel authorized for dependents must begin within 2 years from the date the employee reports for duty at the new duty station. Every possible effort should be made to commence travel at the earliest practicable date. If an employee enters upon active military duty at any time prior to the expiration of such period, the 2-year period will be exclusive of the time spent in military service. For movement of dependents which has been delayed incident to successive permanent change-of-station assignments see paragraph 523." (Emphasis added).

* * * * *

"The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than one (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended for an additional period of time, not to exceed one year, regardless of the reasons therefor, so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station. The circumstances which are determined by the authorizing official to justify the additional period shall be set forth in writing and will be attached to and made part of the reimbursement voucher." (Emphasis added).

Under the above regulations Mr. Clagg's travel and transportation could have begun no later than two years after the effective date of his transfer. Since Mr. Clagg reported for duty on November 23, 1975, the travel authorized for his dependents and the settlement dates for the sale and purchase of residences could not have occurred later than November 23, 1977.

In a similar situation we have held that time limitations pertaining to the transportation of an employee's dependents and household effects and reimbursement of real estate expenses are statutory regulations having the force and effect of law, and, therefore may not be waived in an individual case. 49 Comp. Gen. 145 (1969).

The argument is made that Mr. Clagg's situation differs from the above decision since, in the latter, travel orders were not issued. While the cases may be distinguished on their facts, the principle of law enunciated in the cited decision is applicable.

While it is unfortunate that Mr. Clagg apparently delayed moving because of management's handling of the travel orders, if he moves now the expenses will be incurred more than 2 years after he reported to his new duty station and hence beyond the maximum time limit permitted by the regulations. From an equitable viewpoint we are unable to consider Mr. Clagg's claim since we have no equity jurisdiction unless it is specifically granted by statute. Edward B. Connors, B-190202, August 14, 1978; Charles F. Oakley, B-189577, November 2, 1977.

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The claimant

Accordingly, Mr. Clagg may not be reimbursed for any expenses to be incurred as a result of a move incident to this change of station from Scurry to Dallas, Texas.

R. F. K. 114.

Acting Comptroller General
of the United States