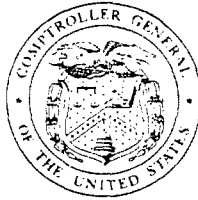


PL II

**DECISION**



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

10,240

FILE: B-194341

DATE: May 22, 1979

MATTER OF: Kenneth P. Lindsley, Jr. - [Relocation expenses <sup>as a</sup>  
Manpower shortage appointee]

DIGEST: Manpower shortage appointee is entitled to travel and transportation expenses authorized by 5 U.S.C. 5723. He is not entitled to relocation expenses, such as residence sale and purchase, and subsistence while occupying temporary quarters authorized by 5 U.S.C. 5724a for a transferred employee. Erroneous administrative authorization of such expenses provides no basis for entitlement, since Government cannot be bound beyond actual authority conferred on its agents by statute and regulations.

The question presented is whether payment of relocation expenses may be made to a manpower shortage appointee incident to reporting to his first duty station. Erroneous information relied on by employee provides no authority for payment of such expenses.

AGC 00706

Mr. R. B. Vera, Finance and Accounting Officer, US Army White Sands Missile Range, New Mexico, has asked for our decision in the matter. His request was forwarded here March 9, 1979, from the Per Diem, Travel and Transportation Allowance Committee (Control No. 79-3).

Mr. Kenneth P. Lindsley, Jr., while living at Titusville, Florida, and employed by a NASA contractor at the John F. Kennedy Space Center was given an appointment to a position in a manpower shortage category at White Sands Missile Range, New Mexico, his first duty station. He was issued a travel order dated ~~May 5, 1978~~, which authorized transportation, per diem, and movement of his household goods. ~~He also was erroneously authorized~~ - Air Force thought he was Federal Government employee - temporary quarters subsistence expense for 30 days, ~~miscellaneous~~, and real estate expenses, which he has claimed incident to reporting to duty.

It is stated in the submission that Mr. Lindsley and his dependents performed the travel and incurred the expenses for the allowances authorized on the travel order and that he acted in good faith in compliance with the provisions of the order. However, authorization of the expenses claimed is viewed as doubtful since this was a first duty station assignment. The matter is thus submitted for our decision.

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The authority to allow Government employees reimbursement for residence sale and purchase expenses, subsistence while occupying temporary quarters, and per diem for family on a permanent change of station is contained in 5 U.S.C. 5724a (1976). Section 5724a authorizes reimbursement for those expenses only for an employee transferred in the interest of the Government from one official station or agency to another for permanent duty or a former employee separated by reason of reduction in force or transfer of function who, within 1 year after separation is reemployed by a nontemporary appointment at a different geographical location.

Appointees to manpower shortage positions are entitled to travel and transportation expenses from their places of residence at time of selection or assignment to their duty station in accordance with 5 U.S.C. 5723 (1976), which provides for reimbursement of the travel expenses of the appointee and payment of the transportation expenses of his immediate family and of his household goods and personal effects to the extent authorized in 5 U.S.C. 5724 (1976). No other expenses are authorized in section 5723. Implementing regulations for shortage category appointees are set forth in Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) in para. 2-1.5f. Subpara. (4) of para. 2-1.5f expressly prohibits the reimbursement of resident sale and purchase expenses, subsistence while occupying temporary quarters, miscellaneous expense allowance and per diem for family. Under the applicable statutes the relocation expenses claimed by Mr. Lindsley are not for payment. The applicable regulations clearly state the statutory limitations. See 54 Comp. Gen. 747 (1975), affirmed in Matter of M. Reza Fassihi, B-182716, July 1, 1976; and Matter of Karl D. Simecka, B-194255, April 3, 1979.

It is unfortunate that Mr. Lindsley as a shortage category employee was erroneously authorized allowances which are statutorily conferred only upon transferred employees. It is a well-settled rule of law, however, that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulations, and this is so even though the agent may have been unaware of the limitations on his authority. See German Bank v. United States, 148 U.S. 573, 579 (1893); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384 (1947); 53 Comp. Gen. 11 (1973); 54 Comp. Gen. 747 (1975); and B-194255, supra. The voucher representing the expenses

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incident to change of permanent duty station is returned. Payment in accordance with this decision is limited to the travel expenses of Mr. Lindsley and the transportation expenses of his immediate family and of his household goods and personal effects to the extent authorized under 5 U.S.C. 5724 (1976).

  
Deputy Comptroller General  
of the United States