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DECISION



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

10,776

FILE: B-194940

DATE: July 18, 1979

MATTER OF: Joyce T. Jamison

DIGEST: Employee is not entitled to reimbursement for cost of shipping her privately owned vehicle from overseas to Baltimore, Maryland. Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1976), makes use of American flag ships mandatory unless it can be proven that it was necessary to use a foreign flag ship. Lack of knowledge concerning this law and regulation concerning implementation of this Act does not relieve the employee from her obligation to pay for transporting her privately owned vehicle on a foreign flag vessel when American flag ships were available.

Ms. Joyce T. Jamison appeals our Claims Division's disallowance of her claim for reimbursement of the cost of shipping her privately owned vehicle (POV) from overseas to the United States on a foreign flag carrier incident to her separation as a civilian employee.

Having completed an assignment as a civilian school teacher for the United States Air Force in England, Ms. Jamison returned to the United States for separation. Before departing she made arrangements for shipment of her POV which, although not authorized then, was subsequently authorized by an amendment to her travel orders. Ms. Jamison's arrangement for shipment was made with a foreign flag carrier who delivered her POV to Baltimore, Maryland, from Southampton, England.

The record discloses that Ms. Jamison made arrangements for shipment of her POV without contacting a transportation officer and that United States flag carriers were available and departing weekly during the time of Ms. Jamison's shipment. Ms. Jamison alleges that she was unaware of the requirement that her POV should be transported by a U.S. flag carrier and that she was not advised by the Civil Personnel Office (CPO), Mildenhall, to this effect. She also alleges that there was no bad faith on her part and that she would have sold the automobile rather than transport it overseas at her own cost.

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Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. § 1241(a) (1976), provides:

"Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: Provided, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor."

We have consistently held that the wording of section 901 makes the use of American flag ships mandatory and restricts the use of foreign flag ships to those situations where it can be satisfactorily proved that the use of the foreign flag ship was necessary. District Containerized Express, B-188186, April 21, 1977; Allied Van Lines, Inc., B-180861, June 7, 1974. Mere inconvenience to the employee, reasonable delays and minor economies are not factors which normally justify preference for a foreign flag ship over those operating under the American flag. 31 Comp. Gen. 351, 356 (1952). Generally, the necessity for use of a foreign flag ship means that an American flag ship either was not available or could not perform the necessary services.

Furthermore, 2 Joint Travel Regulations para. C11006-1 (change 137, March 1, 1977) states:


"Shipment of privately owned motor vehicles at Government expense may be authorized by commercial means if available at reasonable rates and under reasonable conditions or by Government ship on a space-required basis. Mode of shipment will be determined by the transportation officer effecting the shipment. The procedures for shipment will be in accordance with regulations of the Service concerned."

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There is no evidence that Ms. Jamison contacted a transportation officer as required by the cited regulation. Also, there is substantial evidence that American flag ships could have transported her POV back to the United States and Ms. Jamison has supplied no evidence to the contrary. The fact that Ms. Jamison was unaware of the pertinent law and regulation does not permit reimbursement of the shipping charges. Parties dealing with the Government are charged with knowledge of and are bound by statutes and lawfully promulgated regulations. See District Containerized Express, supra.

In a similar case, an employee of the United States, who was returning from Germany for separation, received authorization for transportation of his POV but the Government transportation officer wrongly refused to authorize its shipment by Government vessel. The employee engaged a foreign flag ship for shipment of his automobile notwithstanding that three American flag vessels were available. Although an error was committed by a representative of the Government, the financial liability for use of a foreign flag ship in contravention of 46 U.S.C. § 1241(a) is placed by law upon the employee who may not be reimbursed for the cost of shipping his POV by foreign flag vessel. B-160229, November 7, 1966, and July 1, 1968.

Accordingly, the disallowance of Ms. Jamison's claim for reimbursement for transportation of her POV by a foreign flag vessel is sustained.


Deputy Comptroller General
of the United States