

DECISION



119525
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-205454

DATE: September 21, 1982

MATTER OF: Marion K. Gibson, et al.

DIGEST: While the issues involving travel claims are pending before an administrative hearing authority and are the subject of litigation, in a court, the Comptroller General must decline to act upon the claims.

On February 25, 1981, the Claims Group, Accounting and Financial Management Division of this Office issued settlements directing the Air Force Accounting and Finance Center to pay certain travel expense claims of four civilian employees of the Illinois Air National Guard--Messrs. Marion K. Gibson, Leonard K. Lambert, Richard L. Pollitt, and William L. Spence. The allowance covered three-quarters of the per diem rate for the employees' travel on September 10, 1980, and mileage to the employee driving the privately owned vehicle used for transportation.

On September 11, 1981, the claim settlements were returned to the Claims Group by the Air Force Accounting and Finance Center together with additional information concerning the facts and circumstances surrounding the travel involved. Review of the settlement was requested and it was recommended that the allowance of the claims be reversed in view of the additional information presented.

Before acting upon that request we were asked to allow the claimants and their union representative to submit comments. These comments were received on August 18, 1982.

However, by letter of June 21, 1982, the Commander of the Illinois Air National Guard reported that the claimants had appealed disciplinary action against them taken in connection with their travel. A hearing was scheduled for July 13, 1982, to decide the appeal before the Adjutant General of Illinois. The Commander further reported that the claimants

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through their attorney have filed a lawsuit in the United States District Court, Southern District of Illinois, Springfield Division. This litigation also involves the disciplinary action and the travel that is the subject of the claims before this Office.

In the letter received on August 18, the claimants' union representative informed us that the facts and circumstances surrounding the travel are still matters in issue before the hearing authority and the court.

Where the factual and legal issues involved in a claim are before another forum competent to rule on them, our practice is to refrain from deciding the issues. We have followed this practice regardless of whether the forum is a court or an administrative tribunal. Matter of Southern Wood Piedmont Company, B-194380, November 16, 1979. The rule is for application here. Since the claimants have not been paid travel costs pursuant to the Claims Group settlements, those settlements are revoked. The question of the claimants' entitlement to reimbursement for travel may be resolved by the administrative or judicial proceedings now pending. In the event the issues are not resolved by those proceedings, the claims may be resubmitted to our Office for decision.

Harry R. Van Cleave
for Comptroller General
of the United States