



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Warrant Officer John L. Valentine, USMC -  
Dependents' Travel Entitlement - Denied Boarding  
Compensation

File: B-227280

Date: October 14, 1988

### DIGEST

1. A Marine Corps Warrant Officer was issued permanent change-of-station orders from Hawaii to Okinawa via two temporary duty stations in the United States. The member's command-sponsored dependents were residing in the Republic of the Philippines on the date his orders were issued, and, after 19 days leave, they accompanied him at his personal expense to the United States. The member is not entitled to reimbursement for the travel of his dependents nor for his leave travel to the Philippines since neither was authorized by the regulations in effect at that time.
2. A Marine Corps Warrant Officer, whose dependents accompanied him at his personal expense to his two temporary duty stations in the United States to attend training courses prior to a second consecutive overseas tour, is not entitled to transportation of the dependents at government expense. The course of instruction at each of the schools was less than 20 weeks duration, and the applicable regulations exclude such entitlement under these circumstances.
3. A Marine Corps Warrant Officer, whose command-sponsored dependents had established a residence in the Philippines prior to receipt of his permanent change-of-station orders, is limited to travel and transportation allowances from this location (Philippines) to the new permanent station (Okinawa) not to exceed the entitlement from the old permanent station (Hawaii) to the new station (Okinawa). Since he was issued a Government Transportation Request in error, he is indebted to the government for the difference between the cost expended for the travel of his dependents, less the estimated cost from Hawaii to Okinawa.
4. A Marine Corps Warrant Officer and his dependents were involuntarily forced to relinquish their seats on an airline flight. The officer must reimburse the government

043561/137071

for the portion of the denied boarding compensation paid to him by the airline since such payments to a member or an employee traveling on official business belong to the government. 41 Comp. Gen. 806 (1962). However, he may retain the portion of the denied boarding compensation pertaining to his dependents since their travel was of a personal nature and not official business.

---

## DECISION

This decision is in response to a request from a Disbursing Officer, United States Marine Corps (USMC) Finance Center, Kansas City, Missouri, concerning the propriety of approving a travel voucher submitted by Warrant Officer John L. Valentine. The request was forwarded here by the Per Diem, Travel and Transportation Allowance Committee after it was approved and assigned PDTATAC Control Number 87-3. We have been asked by the Committee to consider various issues pertaining to the member's leave travel and his dependents' travel entitlements, as well as his right to retain monies received as denied boarding compensation. For the reasons that follow, we hold that the member is not entitled to be reimbursed for leave and dependent travel and that he cannot retain the monies he received for denied boarding compensation for his travel.

## BACKGROUND

On December 31, 1985, orders were issued transferring Warrant Officer Valentine from Kaneohe, Hawaii, to Okinawa, Japan, with a temporary duty assignment en route at Quantico, Virginia, for about 13 weeks to attend a Warrant Officer Basic Course. He was to report to Quantico on March 2, 1986. There was also an intent expressed in the orders to have Mr. Valentine attend another training course after completion of the basic course, if one was available. In fact, Mr. Valentine's orders were modified on May 2, 1986, and he was ordered to report for an additional 8 weeks training at Redstone Arsenal, Alabama, reporting there on August 15, 1986. Mr. Valentine's dependents accompanied him on his temporary duty assignments in the United States.

Mr. Valentine's dependents were command sponsored in Hawaii; however, they had traveled to and established a residence in the Philippines 1 year prior to his receipt of orders authorizing travel to Okinawa. Mr. Valentine was authorized to have his dependents accompany him on his subsequent tour in Okinawa.

## OPINION

### Dependents' Leave Travel Entitlements

Mr. Valentine claims reimbursement for the travel of his dependents, his wife and five children, from the Republic of the Philippines to Okinawa, via Philadelphia and Redstone Arsenal. The Marine Corps contends that Mr. Valentine is only entitled to the \$2,346 fare for his dependents from the old duty station in Hawaii to the new duty station in Okinawa. However, the Disbursing Officer questions the effect of an amendment to volume 1 of the Joint Travel Regulations (1 JTR),<sup>1/</sup> which permits reimbursement for dependent leave travel when the member serves two consecutive overseas tours. See subpara. M5500 (Change No. 402, Sept. 1, 1986), effective June 19, 1986.

The statute governing leave travel for the member and his dependents when the member is ordered to perform two consecutive overseas duty tours is contained in 37 U.S.C. § 411b (Supp. III 1985). This provision was amended in 1985 to expand leave travel to include both the member and his dependents, but the regulations providing for the implementation of this 1985 amendment were not published until September 1, 1986, with an effective date of June 19, 1986. See 1 JTR para. M5500, supra.

In this case, Mr. Valentine's orders transferring him from Hawaii to Okinawa were issued on December 31, 1985, prior to the effective date of the change in the regulations on June 19, 1986. Since he commenced travel from his old duty station in Hawaii on February 7, 1986, his legal rights became fixed under those orders at that time, and he is not entitled to be reimbursed for the travel of his dependents in connection with his authorized leave. See Warrant Officer John W. Snapp, USMC, 63 Comp. Gen. 4 (1983), and cases cited.

### Dependents' Travel to Temporary Duty Training Locations

Mr. Valentine's dependents accompanied him at his own expense from the Philippines to his temporary duty sites in Quantico and Redstone Arsenal, where they remained until the completion of his training. While at his last temporary duty site at Redstone Arsenal, Mr. Valentine was erroneously issued a Military Airlift Command transportation

---

<sup>1/</sup> 1 JTR was superseded effective January 1, 1987, by volume 1 of the Joint Federal Travel Regulations.

authorization for himself and his six dependents to travel from St. Louis to Okinawa via Los Angeles. Upon arrival at Los Angeles it was determined that Mr. Valentine's dependents did not have their passports in order so as to allow them entry into Japan. After the proper visas were received, the Marine Liaison at Los Angeles converted the transportation authorization into a Government Transportation Request for a Northwest Orient flight. Each airline ticket cost \$661.

The regulations concerning travel of dependents in effect at the time Mr. Valentine's orders were issued are contained in 1 JTR para. M7000 (change No. 402, Aug. 1, 1986), effective Oct. 1, 1985. These regulations provide that members are entitled to travel and transportation of dependents at government expense upon a permanent change of station for travel performed from the old permanent station to the new permanent station, or between points otherwise authorized in the JTR. However, the regulations exclude entitlement to travel and transportation of dependents at government expense when a member is assigned to a school or institution as a student if the course of instruction at any one duty station is to be of less than 20 weeks duration. 1 JTR para. M7000-2-3. Since Mr. Valentine's two courses of temporary duty training were at different locations and were each less than 20 weeks duration (13 and 8 weeks, respectively), he is precluded by this provision from reimbursement for the travel expenses of his dependents to these temporary duty training assignments in the United States. See 34 Comp. Gen. 260 (1954) where we held that military personnel are considered to be on temporary duty under these circumstances.

#### Dependents' Travel to New Permanent Duty Station

The member's command-sponsored dependents had established a residence in the Republic of the Philippines 1 year prior to receipt of his permanent change-of-station orders to Okinawa. Thus, under the regulations cited above, the dependents are limited to travel and transportation allowances from a location other than the old permanent station to the new permanent station, not to exceed the entitlement from the old to the new station. 1 JTR para. M7058. Therefore, the member's entitlement in this case for his dependents' travel is limited to the cost from the Republic of the Philippines to the new permanent duty station in Okinawa, not to exceed the cost from Hawaii to Okinawa.

Mr. Valentine was issued a Government Transportation Request in error, and he was reimbursed an amount in excess of his entitlement. Therefore, he is indebted to the United States for \$1,620, the difference between the cost expended for travel of his six dependents from St. Louis to Okinawa via Los Angeles (\$3,966) and the estimated cost from Hawaii to Okinawa (\$2,346).

#### Member's Travel Entitlement

As in the case of the dependents above, the member's leave travel entitlement in connection with consecutive overseas assignments was not expanded until publication of a change to 1 JTR, paragraph M5500, effective June 19, 1986. Prior to that date, a member was entitled to such leave after completion of his tour only if one of the two consecutive tours was restricted; i.e., the member was ordered to serve in an other than accompanied by dependents status. 1 JTR para. M5500-2-1. See also Staff Sergeant Walter M. Moore, USMC, et al., B-195643, Apr. 24, 1980. Mr. Valentine was on an accompanied tour in Hawaii, and he was authorized an accompanied tour at his new duty station in Okinawa. Therefore, the regulations in effect at the time his official travel orders were issued on December 31, 1985, would not allow Mr. Valentine leave travel since neither of the tours was restricted. We also note that Mr. Valentine's original orders did not authorize him travel to his leave address in the Philippines at government expense.

Accordingly, Mr. Valentine is not entitled to travel expenses and allowances from his old duty station in Hawaii via the Philippines and return to the United States. He is, of course, entitled to travel expenses from Hawaii to Okinawa via his temporary duty stations in the United States.

#### Denied Boarding Compensation

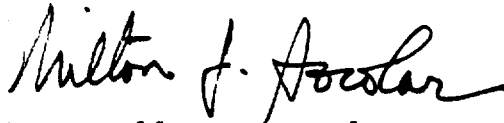
When Mr. Valentine and his dependents arrived at the Los Angeles airport, the Northwest Orient agent determined that the flight was overbooked and rerouted Mr. Valentine and his family on All Nippon Airlines. Mr. Valentine also received seven checks for \$400 each from Northwest Airlines for denied boarding compensation. Mr. Valentine placed this money (\$2,800) in escrow pending a decision as to its disposition.

This type of denied boarding compensation paid by an airline carrier for failure to furnish reserved space to a member or an employee traveling on official business belongs to the government since it is the government that stands to be

damaged by the airline's default in overbooking the flight. 41 Comp. Gen. 806 (1962); Omar J. Norris, B-224590, Nov. 10, 1986; 1 JTR para. M1200-5.

However, as we previously stated, Mr. Valentine's dependents were entitled to travel at government expense only between the Philippines and Okinawa. Thus, when Mr. Valentine's dependents accompanied him on the flight between Los Angeles and Okinawa, it can not be said that they were traveling at government expense on official business. Since this travel by his dependents was personal, Mr. Valentine may retain that portion of denied boarding compensation pertaining to his dependents, \$2,400. The \$400 the member received for his denied boarding was received on behalf of the government and must be returned. 59 Comp. Gen. 203 (1980).

The voucher and related documents are returned for further processing consistent with the conclusions reached in this decision.

A handwritten signature in cursive script, reading "Milton F. Fowler".

Acting Comptroller General  
of the United States