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DECISION

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

FILE: B-212688 **DATE:** December 16, 1983

MATTER OF: Richard D. Knight - Reimbursement for Cost Incurred in the Sale of a Horse - Administrative Leave

DIGEST:

1. An employee on permanent change of station transfer, sold his personally owned horse and equipment, which was used in official Government business, and claims reimbursement for the cost of selling it as a necessary incident of his transfer. The claim for reimbursement is denied since paragraphs 2-3.1(c)(1) and (9) of the Federal Travel Regulations specifically excludes from that coverage losses and costs incurred in selling personal property, and a horse has been deemed to be personal property.

2. An employee on permanent change of station transfer from Texas to Puerto Rico incident to a reduction-in-force action, began travel less than 30 days after travel orders were issued. Because he owned a horse and equipment, which due to the short time involved had to be sold with professional help at a distant location, he was granted administrative leave for that purpose. On question or propriety of that action, the granting of leave without charge to annual leave is a matter of agency discretion under guidance of our decisions. In the circumstances presented we interpose no objection to its being granted here. See cases cited.

This decision is in response to a request from an Authorized Certifying Officer, Department of Agriculture, on several questions involving the entitlement of one of its employees to be reimbursed the cost of selling his horse incident to his permanent change of station (PCS) transfer from Texas to Puerto Rico in February 1983.

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BACKGROUND

Mr. Richard D. Knight, was a Tick Inspector with the Animal-Plant Health Inspection Service, Department of Agriculture, stationed in Eagle Pass, Texas. In February 1983, he was transferred on a PCS assignment to Juncas, Puerto Rico, incident to a reduction-in-force action.

As part of his equipment as a Tick Inspector, he was required to own and maintain a horse and trailer. His job required that he must ride horseback in rough country for long periods and be able to rope and handle wild livestock. Mr. Knight was under contract with the Department of Agriculture for the use of his horse and reimbursed $110 per pay period.

When Mr. Knight was transferred, he sold his horse and trailer and made claim for the expenses he incurred in the sale. They were: Commissions paid on the sale of the horse and the trailer ($490), and the costs incurred transporting the horse to market ($197).

The claim was disallowed by the agency on the basis that there was no provision in the Federal Travel Regulations FPMR 101-7 (September 1981) (FTR), allowing reimbursement of a commission for such a sale. Further, the regulations do not allow expenses for the transportation of livestock or personal property that is for resale, and mileage and per diem is only authorized for the travel of the employee and his immediate family between old and new official stations.

On reclaim, Mr. Knight contends that he was required to hire a professional livestock dealer to sell his horse due to the short time involved in his transfer. He also states that he did not purchase the horse for personal use and resale; he purchased it solely for official duty use. He contends further that had he not been involved in a reduction-in-force situation which precipitated his transfer to Puerto Rico, he would not have had to sell his horse. Therefore, it is his view that due to the unusual circumstances surrounding his situation, such expenses should be considered a necessary incident of his transfer and reimbursable, notwithstanding the limitation contained in the miscellaneous expense provisions of FTR paragraph 2-3.1.

The submission expresses doubt as to his entitlement. However, due to the unusual nature of the situation, the following questions are asked:

> 1. Would the fact that Mr. Knight was involved in a reduction-in-force and was required to transfer, entitle him to any of the expenses incurred?
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> 2. If the expenses cannot be allowed as a travel and transportation expense, would they be recoverable under any other statute?

In the process of reviewing Mr. Knight's claim for submission purposes, it was discovered that he had been granted administrative leave for the time he spent away from his old station to sell his horse. As a result, the certifying officer also asks, "If the claim is disallowed, would the agency be required to make an adjustment to Mr. Knight's leave record to reflect annual leave for the time in duty status spent traveling to the auction site?"

All of these questions, including the question of reimbursement entitlement are answered no, for the following reasons.

DECISION

The provisions of law governing entitlement of Federal employees to be reimbursed for relocation expenses incident to a PCS transfer are contained in 5 U.S.C. § 5724a (1982). Subsection (a) thereof authorizes payment of travel per diem, househunting travel and associated per diem, temporary quarters subsistence expenses upon the employee's arrival at his new duty station, and expenses incurred by the employee in the sale and purchase of his residences at his old and new stations. Subsection (b) authorizes the reimbursement of necessary and appropriate miscellaneous expenses incurred incident to the transfer, on a not-to-exceed basis, and subsection (c) extends to employees, separated by reason of reduction-in-force or transfer of function, the benefits conferred by subsections (a) and (b).

Thus, on the basis of the before-mentioned provisions, such rights as Mr. Knight has, if any, to be reimbursed for the cost of disposing of his horse and trailer incident to his PCS transfer would be limited to the provisions of subsection 5724a(b).

The regulations implementing those provisions are contained in Part 3 of Chapter 2 of the FTR. Paragraph 2-3.1 of those regulations provides, generally, that an employee is entitled to receive a miscellaneous expense allowance, the purpose of which is to help defray various expenses associated with discontinuing a residence at one location and reestablishing a residence at a new location. While a number of reimbursable items are listed in subparagraph 2-3.1b, subparagraph 2-3.1c provides:

> "c. Types of costs not covered.
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> * * * * *
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> "(1) Losses in selling * * * personal property and cost items related to such transactions;
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> "(9) Losses as the result of the sale or disposal of items of personal property not considered convenient or practicable to move;"

The term "personal property" is not specifically defined in Chapter 2 of the FTR. However, subparagraph 2-1.4h of those regulations defines household goods as personal property which may be transported legally in interstate commerce and which belong to an employee at the time shipment begins. Further, the subparagraph lists types of personal property which may be transported at Government expense, and also contains a list of personal property items which may not be so shipped. Identified in that exclusionary list is "livestock," which as we understand the term, includes horses. In this connection, see 21 Comp. Gen. 40 (1941), in which horses and equipment identified as personal property of Department of Agriculture employees under a 1911 statute, was considered to be the same as "personal effects" under the 1940 statute governing travel and transportation rights of civilian employees on a PCS transfer.

While the foregoing relates to the prohibition against reimbursement for the cost of transporting horses and equipment as personal property, rather than reimbursement for the cost of disposition, the fact remains that such items are identified as personal property for the purpose of these regulations. In view thereof, and the fact that losses and costs associated with the sale of personal property are specifically excluded under FTR paragraphs 2-3.1c(1) and (9) from the miscellaneous expense allowance otherwise authorized, and are not included elsewhere in those regulations as a properly reimbursable item, Mr. Knight may not be reimbursed these costs.

The record shows that Mr. Knight was retained in a pay status without charge to annual leave for the period February 24-28, 1983, the time he spent traveling from his old official station to the auction site and return. Thus, we are asked whether the administrative leave which Mr. Knight was granted to permit him to sell his horse and equipment should be charged to his annual leave account.

The Office of Personnel Management has not issued any general regulations on the subject of granting an employee an excused absence (commonly called administrative leave), in connection with a permanent change of station move at the direction of and for the benefit of the Government. In the absence of a governing statute or regulation, we have held that under the general guidance of decisions by this Office, any agency to which an employee is attached is responsible for determining the situations in which the employee may be excused from duty without charge to annual leave. See Alex Kale, 55 Comp. Gen. 779 (1976), and cases cited. See also B-180693, May 23, 1974, in which a week of administrative leave was not considered excessive in connection with a PCS transfer.

In view of the short time frame between the date travel orders were issued to Mr. Knight (February 10, 1983), and the date travel was to begin (March 6, 1983); the location of his new permanent duty assignment (Puerto Rico) to which the transportation of his horse was impractical; and the apparent

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need to have professional help at a distant location where his horse could be sold, we interpose no objection to the granting of administrative leave in this case.

for Milton J. Socolar
Comptroller General
of the United States