

DECISION

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

FILE: B-213730

DATE: April 17, 1984

MATTER OF: Dr. Arnold Krochmal - Reimbursement
of Relocation Expenses - Return to
United States for Retirement

DIGEST:

An employee stationed in Puerto Rico was authorized to make an early return to his home in the United States for retirement. His travel authorization erroneously authorized him to incur relocation expenses. Employee seeks reimbursement of these expenses under 5 U.S.C. § 5724 and § 5724a. The claim is denied since those provisions apply only to employees who are transferred between duty stations to perform permanent duty at new station. Travel rights of employees returning to continental United States are contained in 5 U.S.C. § 5722, and FTR para. 2-1.5g(2)(b), which do not permit reimbursement of any of the expense items claimed. Since employee's travel rights are strictly governed by law, the Government cannot be bound by errors made in a travel authorization. See cases cited.

This decision is in response to a request from an Authorized Certifying Officer, Department of Agriculture, concerning the entitlement of Dr. Arnold Krochmal, a former employee of the Forest Service, to be reimbursed for certain relocation expenses. We conclude that he is not entitled for the following reasons.

FACTS

Dr. Krochmal, a Principal Economic Botanist with the Forest Service, Department of Agriculture, was stationed in Rio Piedras, Puerto Rico, on a 2-year assignment which began in January 1982. On November 29, 1982, he made a written request to the Forest Service that he be permitted to make an early return from Puerto Rico to his home, Asheville, North Carolina, for retirement purposes. The granting of his request was made contingent on the Forest

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Service agreeing that he and his wife would be entitled to return travel, shipment of household goods, and automobile at Government expense.

The Forest Service approved his early return travel at Government expense on December 23, 1982, but advised him that his expense reimbursement only would be allowed "within the limits authorized by Government Travel Regulations." The letter of approval contained the caveat that he should not incur any expenses until the appropriate travel authorization was issued.

Dr. Krochmal's travel authorization, issued February 7, 1983, authorized him to incur the full range of travel, transportation and relocation expenses normally associated with an employee making a permanent change-of-station transfer. However, item 8 of the travel order stated the purpose of travel as "Return to conterminous U. S. for retirement."

Following completion of his travel to Asheville, Dr. Krochmal submitted a travel voucher claiming reimbursement of \$3,180.93 for expenses incurred, not including air fare, transportation of household goods and automobile. A "Voucher Difference Statement" dated September 1, 1983, issued by the Department of Agriculture, National Finance Center, allowed \$249.45, and disallowed the balance of his claim for miscellaneous expenses, real estate expenses, temporary quarters subsistence expenses, and per diem for his wife. The reason given by the agency for the denial was that Dr. Krochmal's travel was deemed to be the same as that of a new appointee, and as such, reimbursement was not authorized.

The matter has been submitted here on reclaim for the reason that Dr. Krochmal has asserted entitlement to reimbursement based on his good faith reliance on the travel authorization as issued to him.

DECISION

Section 5724 of Title 5, United States Code (1982), authorizes the reimbursement of expenses incurred by a Government employee, who is transferred in the interest of the Government from one official duty station to another for

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permanent duty, as well as the transportation expenses of his immediate family and movement of his household goods. Ancillary to such entitlements, 5 U.S.C. § 5724a authorizes the payment of per diem, temporary quarters subsistence expenses, and reimbursement of certain expenses incurred attendant to the sale of the employee's residence at his old official station and purchase of a residence at his new official station.

Entitlement under the above cited provisions, however, is predicated upon the employee satisfying all basic conditions stated therein. With regard to Dr. Krochmal's situation, the basic condition which has not been satisfied is that contained in 5 U.S.C. § 5724(a), which provides in part:

"(1) * * * an employee transferred in the interest of the Government from one official station or agency to another for permanent duty * * *." (Underscoring supplied.)

Thus, under this provision, only that travel between duty stations where permanent duty is to be performed at the new duty station comes within the purview of 5 U.S.C. §§ 5724 and 5724a. We have ruled that return travel of a Government employee from a duty station outside the continental United States to the United States for a purpose other than assuming a new Government position, i.e., separation or retirement, does not constitute a permanent change of station for the purposes of these Code provisions. See 54 Comp. Gen. 991 (1975), and B. L. Gordon, B-204467, June 8, 1982.

For those employees who do not satisfy all the conditions specified in 5 U.S.C. §§ 5724 and 5724a, 5 U.S.C. § 5724(d) provides that when an employee is transferred to a post of duty outside the continental United States, his travel entitlement to that location and his return travel "shall be allowed to the same extent and with the same limitations prescribed for a new appointee under section 5722 * * * [5 U.S.C. § 5722]."

Section 5722 of Title 5, United States Code (1982), provides in part:

"(a) Under such regulations as the President may prescribe * * * an agency may pay from its appropriations--

"(1) travel expenses of a new appointee and transportation expenses of his immediate family and his household goods and personal effects from the place of actual residence at the time of appointment to the place of employment outside the continental United States; and

"(2) these expenses on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the United States."

Thus, it is observed that an employee's travel expense reimbursement rights under these provisions are significantly different than those under 5 U.S.C. §§ 5724 and 5724a.

The regulations implementing the travel, transportation and relocation allowance provisions of Title 5, United States Code, are contained in the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR).

Paragraph 2-1.5g of the FTR, governs an employee's travel reimbursement rights for overseas assignments and return. The FTR provides a summation of reimbursable expenses in subparagraph (2)(b) for new appointees traveling to positions outside the conterminous United States, and those employees in positions outside the conterminous United States returning to the United States for separation or retirement. As that summation relates to the present case, clause (i) authorizes travel and per diem for the employee; clause (ii) authorizes travel for the employee's immediate family, but excludes per diem for the family members; clause (iii) authorizes mileage for privately owned vehicle travel; clause (iv) authorizes transportation and temporary storage

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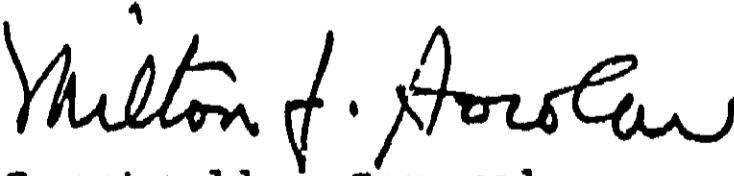
of household goods; and clause (vii) authorizes transportation of the employee's personal automobile. Subparagraph (2)(c) of the same paragraph, summarizes those expenses which may not be reimbursed. They are:

"* * * per diem for family, cost of househunting trip, subsistence while occupying temporary quarters, miscellaneous expense allowance, residence sale and purchase expenses and lease-breaking expenses."

Thus, it is clear that provisions of both the statute and implementing regulations do not authorize reimbursement for the items claimed by Dr. Krochmal.

With regard to Dr. Krochmal's assertion that he incurred these expenses on a good faith reliance of the travel authorization issued to him, the right of an employee to be reimbursed for any expense incident to official travel is strictly governed by law and regulation. It is a well-settled rule that the Government is not bound by the acts of its agents which go beyond the actual authority conferred upon them by statute, nor is the Government estopped from repudiating any such unauthorized acts. See Dr. Frank A. Peak, 60 Comp. Gen. 71, 74, (1980), and cases cited therein. See also, Schweiker v. Hansen, 101 S. Ct. 1468 (1981). Thus, the fact that Dr. Krochmal's travel authorization was prepared to include, as reimbursable, types of expenses which under the law and regulations may not be reimbursed, would not provide a basis for payment.

Therefore, the administrative action taken to disallow that portion of Dr. Krochmal's travel voucher covering his claim for temporary quarters subsistence, real estate and miscellaneous expenses reimbursement is correct, and is sustained.

for 
Comptroller General
of the United States