

Meckelf
31235

DECISION



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

FILE: B-216465

DATE: May 22, 1985

MATTER OF: Lieutenant Colonel Paul N. Driggers, USAF

DIGEST:

A service member ordered on a permanent change of station subsequently was issued temporary duty orders to attend a training course at the new permanent duty station just prior to reporting for his permanent assignment. Per diem and mileage allowances may not be paid for the period of temporary duty since the permanent transfer was effective when he reported for temporary duty and, thus, the member was not in a travel status performing travel away from his designated post of duty. While the itinerary on the temporary duty orders included a return to his old duty station, that appears to have been an error since his permanent change-of-station orders did not direct his return to the old permanent station and there was no apparent purpose for him to return there on public business.

A service member ordered to a permanent change of station subsequently was ordered to perform temporary duty at the new permanent duty station and return to his old permanent duty station upon completion of the temporary duty. We are asked whether temporary duty allowances may be paid for the period of temporary duty.^{1/} Payment may not be made since the member was not in a travel status performing travel away from his designated post of duty because he had been detached from his old permanent duty station and upon arrival at the new duty station was performing temporary duty at his permanent station for which such allowances are not authorized.

^{1/} Captain John M. Powell, Accounting and Finance Officer, Headquarters, 3480th Technical Training Wing (ATC), Goodfellow Air Force Base, Texas, submitted this request for a decision and, it has been assigned Control Number 85-1 by the Per Diem, Travel and Transportation Allowance Committee.

032083

Background

Lieutenant Colonel Paul N. Driggers was issued orders dated May 4, 1984, directing a permanent change of station (with a permanent change of assignment) from Goodfellow Air Force Base, Texas, to Squadron Officer School, Maxwell Air Force Base, Alabama. The orders stated that the transfer was effective June 1984, that he was authorized delay en route chargeable as leave, and that he was directed to report for his new assignment not later than July 31, 1984. Thereafter, he was issued temporary duty orders dated May 16, 1984, to proceed on or about June 3, 1984, for attendance at the Academic Instructor Course at Maxwell Air Force Base during the period June 4 through July 6, 1984. On May 18, 1984, he received advance payment of dependents' travel allowance and dislocation allowance based on his permanent change-of-station orders. In receiving these allowances he certified that his dependents would move from Texas to Maxwell Air Force Base with travel beginning May 29, 1984, and estimated to be completed on July 31, 1984.

He departed Goodfellow Air Force Base on May 27, 1985, by private automobile, presumably with his family. After spending a few days on leave at Fort Walton Beach, Florida, he arrived at Maxwell Air Force Base on June 3. Upon completion of the training course at Maxwell Air Force Base, he was on leave from July 7, 1984, until he returned to Goodfellow Air Force Base on July 9, 1984. Thereafter, he was on leave during the period July 11 through July 23, 1984, prior to reporting at Maxwell Air Force Base for his permanent assignment.

The submission indicates that payments have been made for per diem and mileage allowances while on temporary duty. The Finance and Accounting Officer believes that since the temporary duty was performed at the new permanent duty station, the temporary duty order was issued erroneously and that actions should be taken to recoup the payments.^{2/} In support of his position he cites our decisions

^{2/} The Finance Officer also questions the propriety of paying for the training course from funds allocated to Goodfellow rather than funds allocated to Maxwell when the training was related to the officer's new assignment at Maxwell, not his old assignment at Goodfellow. While the reason for that is not apparent to us either, that is primarily an internal matter for review within the Air Force.

B-161267, August 30, 1967, and B-167060, July 18, 1969, in which it was determined that a member who, after detachment from his old permanent duty station performs temporary duty at his new permanent station which is then his designated post of duty may not be viewed as being away from his designated post of duty in order to receive per diem during the period of such temporary duty.

Analysis

Members of the uniformed services are entitled to travel and transportation allowances for travel performed when away from their designated post of duty. 37 U.S.C. § 404. Members shall be entitled to travel and transportation allowances only while actually in a "travel status" and they shall be deemed to be in a "travel status" while performing travel away from their permanent duty station, upon public business, pursuant to competent travel orders. Paragraph M3050-1, Volume 1, Joint Travel Regulations (1 JTR). Consequently, authority exists for the payment of those allowances incident to temporary duty when such temporary duty is performed at a point removed from the member's designated post of duty or permanent station.

The term "temporary duty" is defined as duty at one or more locations, other than the permanent station, at which a member performs temporary duty under orders which provide for further assignment, or pending further assignment, to a new permanent station or for return to the old permanent station upon completion of the temporary duty. Appendix J, 1 JTR. No per diem allowance is payable for temporary duty performed within the limits of the permanent station. 1 JTR para. M4201-5.

It consistently has been held that when a member is directed to report for permanent duty at a station following completion of temporary duty which he is performing at the same place, the station to which he was ordered becomes his designated post of duty and, in effect, his permanent station upon receipt of such orders. Therefore, no right to per diem accrues during the period he performed "temporary duty" from the time of receipt of the orders, because he was no longer traveling away from his designated post of duty within the meaning of section 404(a) of title 37, United States Code. Lieutenant Dale C. Peak, B-180013, October 2,

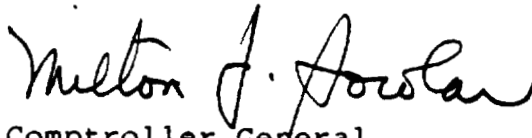
1974, Captain Jim D. Zinke, B-202319, May 4, 1981, 38 Comp. Gen. 697 (1959), and 34 Comp. Gen. 427 (1955).

Reading the two orders issued to Colonel Driggers together and considering the actual facts of the matter, what we have here is the transfer of Colonel Driggers to Maxwell Air Force Base effective in June with a training course to be completed there and leave authorized to be taken prior to his assuming his permanent duties not later than July 31. Colonel Driggers performed duty at Goodfellow Air Force Base through May 26, 1984, when he departed from that location. He was on leave from May 28, 1984, until June 3, 1984, when he reported at Maxwell Air Force Base for his temporary duty assignment. Since the orders of May 4, 1984, directing a permanent change of station had a transfer effective date of June 1984, Maxwell Air Force Base was his designated post of duty, and in effect his permanent station from the time he arrived there. The permanent change-of-station orders did not direct a return to Goodfellow Air Force Base for further duty after arrival at the new permanent duty station. Although the temporary duty orders showed an itinerary of travel from Goodfellow to Maxwell and return to Goodfellow, the return portion appears to have been included in error since Colonel Driggers' transfer under the permanent change-of-station orders was effective in June 1984, the time when the temporary duty would begin, and there was no apparent reason for him to return to Goodfellow. Also, Colonel Driggers had knowledge of his permanent change of station and permanent change of assignment to Maxwell Air Force Base prior to his departure for the temporary duty. Master Sergeant Thomas W. Dunning, B-185851, April 28, 1976, and B-176653, December 13, 1972. Thus, no right to per diem would accrue to him during the period he performed duty at Maxwell Air Force Base because he was not traveling away from his designated post of duty within the meaning of 37 U.S.C. § 404 and hence was not in a travel status during such duty.

Since Colonel Driggers is regarded as present at his designated post of duty and permanent duty station during the period June 4, 1984, through July 6, 1984, he was not entitled to temporary duty allowances, including per diem, at that location. Also, since there is no apparent reason for his return to Goodfellow on public business (that is, there is no indication that he was directed to return for further duty), he does not appear entitled to travel

B-216465

allowances for return travel to his old permanent station. The voucher submitted with this request for decision is being returned for further processing in accordance with this decision.

for 
Comptroller General
of the United States