

**DECISION**

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

**FILE:** B-217159

**DATE:** June 28, 1985

**MATTER OF:** Richard M. Boyer

**DIGEST:**

Employee who had fulfilled his agreement with his employing agency to remain in the overseas service for 24 months was required to execute another agreement for 12 months Government service upon retransfer from Honolulu to Atlanta. Before completing the requisite 12 months' service, the employee was separated for participating in a strike against the Government. Since he violated his service agreement, the real estate and miscellaneous expenses paid in connection with his transfer to Atlanta are recoverable from him as a debt due to the Government.

Mr. Richard M. Boyer, a former employee of the Federal Aviation Administration (FAA), requests reconsideration of our Claims Group's denial of his claim for real estate expenses and miscellaneous expenses in connection with a permanent change of station from Honolulu, Hawaii, to Atlanta, Georgia, in December 1980.<sup>1/</sup> As a condition to payment and retention of these relocation allowances, he was required to execute an agreement to remain in the Government service for a period of 12 months following the effective date of his transfer to Atlanta. Since he violated that agreement, these allowances are recoverable from him as a debt due to the United States.

Mr. Boyer was transferred to Honolulu, Hawaii, from Atlanta, Georgia, in 1978. In October 1978, in accord with 5 U.S.C. § 5724(d) (1976), Mr. Boyer signed a "Travel and Transportation Agreement for Overseas Duty" by which he agreed to remain in the overseas service for a period of 24 months following the effective date of his transfer unless separated for reasons beyond his control. After having satisfied his obligation under that agreement,

---

<sup>1/</sup> Mr. Boyer's claim was denied by Settlement Certificate No. Z-2841284 of June 6, 1984, issued by our Claims Group, GGD.

032438

Mr. Boyer was transferred to Atlanta, Georgia, effective January 5, 1981. Incident to that transfer, Mr. Boyer signed a second "Travel and Transportation Agreement for Overseas Duty" by which he agreed to remain in the Government service for a period of 12 months following the date of his relocation unless separated for reasons beyond his control which are acceptable to the agency concerned.<sup>2/</sup> By the terms of that agreement, he acknowledged that he understood and agreed that if he violated the agreement, any payments made would be recoverable from him as a debt due to the United States. In connection with his transfer to Atlanta, Mr. Boyer was reimbursed travel, transportation and relocation allowances, including real estate and miscellaneous expenses.

Mr. Boyer was separated from Government service on August 26, 1981, for participation in a strike by air traffic controllers. On September 19, 1981, he was notified that he was indebted to the United States Government in the amount of \$15,577.16--\$61.89 for advanced annual leave and \$15,515.27 for failure to complete a travel and transportation agreement. On November 3, 1981, he was mistakenly determined to be indebted only for the advanced annual leave of \$61.89. Mr. Boyer agreed that this amount was correct and paid \$61.89 by certified check on November 4, 1981.

Upon review of the records, the FAA determined that Mr. Boyer was still indebted to the Government for \$6,058.86--\$200 for miscellaneous expense and \$5,858.86 for residence sale expenses he had been paid in connection with his move from Honolulu to Atlanta. On the basis that his entitlement to these expenses was contingent upon satisfaction of his agreement to remain in the Government service for 12 months after his transfer to Atlanta and that his breach of that agreement was a matter within his control, the FAA limited his travel rights to the return travel and

---

<sup>2/</sup> Mr. Boyer in fact executed two such agreements; one in August 1980 and another in October 1980. These agreements are duplicative and the fact that he signed the same agreement at two different times does not affect his obligation which was to remain in the Government service for 12 months following the effective date of his transfer to Atlanta.

transportation entitlements he had earned upon satisfaction of his earlier 24-month overseas transportation agreement.<sup>3/</sup> Specifically, he was allowed transportation for himself, his immediate family, their household goods, and personal effects from Honolulu to Fayetteville, Georgia, his place of actual residence at the time of his assignment overseas. His indebtedness to the Government was limited to the amount he had received for real estate and miscellaneous expenses.

Mr. Boyer contends that he is entitled to the real estate and miscellaneous expenses in question under 5 U.S.C. § 5724(d) (1976) by virtue of having satisfied the 24-month service agreement he executed in 1978 incident to his transfer to Hawaii. He claims that he should not have been required to sign a new service agreement incident to his return to Atlanta, and, therefore, that his right to be reimbursed for real estate and miscellaneous expenses could not be extinguished by breach of that agreement. Mr. Boyer further believes that he compromised and fully settled all of his indebtedness when he paid \$61.89 for advanced annual leave and did not request further action at that time.

The entitlements of employees transferred to a post of duty outside the continental United States are based on 5 U.S.C. § 5724(d), which provides that they shall be allowed travel and transportation to and from the post to the same extent and with the same limitations prescribed for a new appointee under 5 U.S.C. § 5722. The expenses authorized for new appointees do not include real estate and miscellaneous expenses. They are specifically limited to travel and transportation expenses, 5 U.S.C. § 5722(a), and

---

<sup>3/</sup> While the record is not entirely clear, it appears that the original \$15,577.16 debt asserted against Mr. Boyer included his return travel and transportation expenses as well as the \$6,058.86 in real estate and miscellaneous expenses. As noted above, Mr. Boyer earned reimbursement of the former expenses upon satisfaction of his earlier 24-month service agreement. Thus, only the \$6,058.86 in real estate and miscellaneous expenses remains in dispute.

are subject to the required service agreement. See 5 U.S.C. § 5722(b).

Because Mr. Boyer satisfied his overseas transportation agreement, he was entitled to be reimbursed travel and transportation expenses for himself, his immediate family and his household goods and personal effects on return from Honolulu to Fayetteville, Georgia, his place of residence at the time of his assignment to Honolulu, under 5 U.S.C. § 5722(a)(2). Mr. Boyer's right to these expenses vested once he completed the 24-month tour of duty to which he had agreed incident to his transfer to Honolulu, and is not being challenged now.

Mr. Boyer's entitlement to real estate and miscellaneous expenses, however, is based on separate and distinct authority contained in 5 U.S.C. § 5724a. Real estate expenses are authorized by 5 U.S.C. § 5724a(a) (Supp. III 1979) which provides in part:

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title.

\* \* \* \* \*

"(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States \* \* \*."

Employees transferred in the interest of the Government from one permanent duty station to another and paid expenses of travel and transportation under 5 U.S.C. § 5724(a) are also

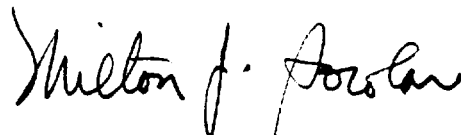
entitled to reimbursement for miscellaneous expenses under 5 U.S.C. § 5724a(b).

While there is no statutory requirement under 5 U.S.C. § 5724(a) for execution of a service agreement incident to a transfer from overseas to the continental United States, we have held that an agency has authority to condition payment of any expense involved in connection with such a change of official station upon execution of an agreement to remain in the Government service for a specified period of time. 60 Comp. Gen. 308, 310 (1981); 47 Comp. Gen. 122, 125 (1969). Since Mr. Boyer did execute a valid agreement, he is bound by the provisions thereof.

Mr. Boyer's entitlement to real estate and miscellaneous expenses under 5 U.S.C. § 5724a, therefore, was contingent upon satisfying his agreement to remain in Government service for 12 months after his transfer to Atlanta. His separation from employment for participation in a strike before completing the requisite 12 months' service was determined not to be for reasons beyond his control acceptable to his agency. Therefore, he violated his agreement and payments made under 5 U.S.C. § 5724a for real estate expenses and miscellaneous expenses are recoverable from him as a debt due to the United States.

Although Mr. Boyer made a payment of \$61.89 for advanced annual leave, we find no clear evidence in the record that this payment was accepted in full satisfaction of his debt or that anyone had authority to accept a compromise settlement of a debt due the United States in the circumstances involved.

Accordingly, the denial of Mr. Boyer's claim for real estate and miscellaneous expenses by our Claims Group is sustained.



Acting Comptroller General  
of the United States