

DECISION



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

FILE: B-219488

DATE: March 11, 1986

MATTER OF: Elizabeth A. Varrelman

DIGEST:

Under applicable Department of Defense regulations, an employee separated from an overseas position is entitled to onward transportation of household goods stored in the United States provided shipment to a final destination is begun within 2 years from the date of separation. Where the employee was unable to provide a delivery date or destination within 2 years from the date of separation, contacts with Government transportation officers concerning shipment did not meet the requirement to begin shipment within the requisite period. Erroneous advice that the 2-year period began to run from the date the employee's goods reached the continental U.S. does not provide a basis to have them delivered at Government expense.

This action is in response to a request by Elizabeth A. Varrelman for reconsideration of our Claims Group's disallowance of her claim for delivery of household goods.^{1/} The claim was disallowed because the goods were not delivered to final destination within the 2 years required by the implementing regulations. The disallowance is sustained for the reasons set forth below.

BACKGROUND

Ms. Varrelman was separated on August 26, 1981, from her position with the Department of Defense School in Aviano, Italy. Upon separation from the position overseas

^{1/} Ms. Varrelman's claim was disallowed by settlement No. Z-2854598 issued by our Claims Group on March 6, 1985.

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she was entitled to have her household goods transported at Government expense to Virginia, her place of actual residence at the time of appointment. Ms. Varrelman claims that prior to her return to the United States, she was told that she had 2 years from the date her household goods arrived in the continental United States to have them delivered to a final destination.

Upon her return to the United States, Ms. Varrelman elected to have her household goods shipped from her overseas station to New Jersey rather than Virginia. Those goods arrived in the continental United States on December 3, 1981, and were stored in New Jersey.

By letter dated August 21, 1983, Ms. Varrelman requested information from the Claims Office at McGuire Air Force Base, in New Jersey; regarding delivery of her household goods which were still in storage there. That letter indicates that she did not seek advice from the claims officer because she thought he was the responsible official but because he had been helpful in settling a claim for loss and damages in another matter. She received a written response, dated August 25, 1983, advising her that her questions concerning the further shipment of her household goods could only be answered by a transportation officer. She was advised to contact the transportation office at the nearest military installation.

Ms. Varrelman states that she had in fact contacted the Army at Cameron Station on August 19, 1983, to request information about delivery of her household goods and that between then and August 26, 1983, she hand carried her orders and Government bill of lading to Cameron Station where they were copied by a transportation officer.^{2/} On

^{2/} Ms. Varrelman states that on June 1, 1983, she had requested information from the claims officer at Andrews Air Force Base concerning shipment of the household goods being stored in New Jersey. However, the letter of that date she received in response to her inquiry indicates that it concerned the loss sustained to the shipment that had been stored in Virginia.

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August 31, 1983, she was advised by officials from Cameron Station that she should arrange for shipment through the Naval Air Engineering Center, Lakehurst, New Jersey (Lakehurst). Ms. Varrelman states that on September 6, 1983, she was informed by officials at Lakehurst that her entitlement to have her household goods shipped at Government expense had expired August 26, 1983.

Subsequent to August 26, 1983, Ms. Varrelman had further contacts with officials at Lakehurst, Cameron Station and McGuire Air Force Base regarding the delivery of her household goods. Many of those contacts concerned the fact that her eligibility for transportation of household goods had expired on August 26, 1983. It was not until December 1983, after finalizing the purchase of a residence in Virginia, that Ms. Varrelman was able to provide Government transportation officials with the address to which she wished to have her household goods delivered.

By settlement certificate dated March 6, 1985, our Claims Group confirmed that Ms. Varrelman was not entitled to transportation at Government expense of the household goods stored in New Jersey. That determination was based on the fact that there is no authority to waive or modify the 2-year period for transportation of household goods. Ms. Varrelman has appealed from that determination, pointing out that the precedents relied upon by our Claims Group and by the agency do not address a situation such as hers in which the time limit expired because the employee had problems identifying the installation responsible for transportation of the household goods. She also points out that she relied on erroneous advice that the 2-year period within which she was required to commence delivery of her household goods began when they arrived in the United States.

DISCUSSION

We first point out that payment of travel or transportation expenses may be made only pursuant to specific statutory authority and within the limitations set out under applicable regulations. If travel or transportation is performed under other circumstances, there is no authority for payment.

Authority to transport the household goods of an employee who returns from an overseas post of duty is contained in 5 U.S.C. §§ 5722(a) and 5724(d). Implementing regulations are found in the Federal Travel Regulations, incorp. by ref., 41 C.F.R. § 101-7.003. For civilian employees of the Department of Defense, these regulations are reflected and further implemented by Volume 2 of the Joint Travel Regulations (2 JTR). These require that return travel or transportation entitlements be used within a reasonable time after separation and establish procedures by which a delay in return travel or transportation may be authorized for up to 2 years from the date of separation where unusual extenuating circumstances exist. 2 JTR paras. C4202-2 and C8003-9. Applicable specifically to a separated employee who, like Ms. Varrelman, has initiated transportation within a reasonable time and placed goods in storage in the United States, subparagraph C8003-9c provides:

"c. Return for Separation. * * * Upon arrival in the United States, onward movement of the household goods from storage is authorized provided the movement to the final destination is begun within 2 years from the effective date of the employee's separation.
* * *

The provisions of the Joint Travel Regulations cited above are consistent with decisions of this Office in which we have recognized that the 2-year period for beginning travel and transportation specified in paragraph 2-1.5a(2) of the Federal Travel Regulations limits an agency's authority to pay return travel and transportation for a separated employee. We held that an employee's return should be incident to the termination of his assignment, commencing a reasonable time after the assignment has been terminated, and that the time limit of 2 years is applicable to travel of the employee's family and transportation of his household goods. 28 Comp. Gen. 289 (1948) and B-184676, November 17, 1975. We have also recognized that, subject to the 2-year maximum, agencies have authority to issue regulations more specifically identifying the period within which separation. 52 Comp. Gen. 407 (1973).

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Since the above regulations were issued pursuant to statutory authority, they have the force and effect of law. Accordingly, the time limitations and effective dates set forth therein may not be waived, modified or extended by this Office regardless of extenuating circumstances. 49 Comp. Gen. 145 (1969). Thus, regardless of the circumstances which caused Ms. Varrelman's delay, there is no authority to now waive the applicable time limitations.

Ms. Varrelman asserts that she requested shipment of her household goods prior to the expiration of her entitlement and, therefore, that shipment had begun prior to expiration of the 2-year period. However, the record shows that she began contacting military installations only days before her entitlement expired. Although she clearly requested advice about shipment of her household goods, such a request does not satisfy the requirement that shipment begin within 2 years of separation.

This Office has consistently held that shipment to a final destination is begun when the carrier receives the household goods with an order to forward them to a particular destination. 20 Comp. Gen. 568 (1941) and Peter E. Donnelly, B-188292, July 8, 1977. In limited circumstances where arrangements for delivery to final destination were made by the employee within the 2-year period, but where actual delivery to the carrier was delayed through actions of the Government's transportation officer, we have treated transportation as having commenced within the requisite time. B-130454, May 8, 1957. Thus, unless arrangements have been made for a carrier to deliver the goods to a particular destination, shipment of the goods has not begun. Ms. Varrelman's household goods were not received by a carrier to be delivered to a specific destination prior to the end of her entitlement.

Although Ms. Varrelman did notify a number of installations that she wished to have her goods shipped, she did not request actual shipment of her goods since she would have been required to provide a specific destination and delivery date. Ms. Varrelman herself has acknowledged that she was unable to provide a delivery date to her new residence until December 1983. Since transportation officials were unable to process a request for shipment until this information was provided, we do not view Ms. Varrelman's action in

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taking her orders and Government bill of lading to the transportation officer at Cameron Station on or shortly before August 26, 1983, as establishing that movement to final destination was begun within 2 years from the date of her separation. Ms. Varrelman argues that since she relied upon erroneous information provided by the Government and because the difficulty she had in determining which installation was responsible for her household goods was the result of Government delay or error, the Government should bear the expenses of shipping her household goods.

While it is unfortunate that Ms. Varrelman may have been given erroneous information and had difficulty determining to whom she should apply to have her goods shipped from New Jersey, these considerations do not provide a basis for allowing her claim. It is well established that in the absence of specific authority therefor, the United States is not liable for the erroneous actions of its officers, agents or employees, even though committed in the performance of their official duties. 44 Comp. Gen. 337 (1964) and E. Paul Tischer, M.D., 61 Comp. Gen. 292 (1982). We have applied this rule to cases in which employees are given erroneous advice concerning the period within which they must arrange for transportation of their household goods. In Peter E. Donnelly, B-188292, we denied the employee's claim for shipment of household goods even though he erroneously had been granted an extension of the 2-year period to commence shipment by an official who believed he had authority to grant an exception to the time limit.

CONCLUSION

Ms. Varrelman did not provide the necessary information to initiate the shipment of her household goods prior to expiration of the 2-year period specified in 2 JTR para. C8003-9c for beginning movement from storage to final destination. We are unaware of any authority which would allow the shipment of goods to be made at Government expense under these circumstances. The claim was properly disallowed and the Claims Group's March 6, 1985 disallowance of her claim is sustained.



Acting Comptroller General
of the United States