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Mr. Gandy - PLM-I



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: John Schilling--Transferred Federal Employees--
 Transportation of Mobile Homes
 File: B-226304
 Date: May 22, 1987

DIGEST

1. The Federal Travel Regulations currently authorize transferred federal employees only the costs directly related to the actual shipment of a mobile home as reimbursable "transportation" expenses. Their costs necessarily incurred in relocating the mobile home before and after shipment are instead classified as "miscellaneous" expenses and are reimbursable only through the payment of a separate miscellaneous expense allowance. Hence, transferred employee's out-of-pocket costs for blocking, leveling, and connecting utilities for his mobile home at his new duty station are reimbursable only as miscellaneous expenses, notwithstanding that the maximum payable was inadequate to cover his costs.

2. The statute authorizing transferred employees reimbursement of "transportation" expenses in relocating a mobile home was designed by Congress to provide civilian employees with the "same entitlement" previously granted to military personnel. Regulations implementing the military statute apply the statutory term "cost of transportation" as generally covering all costs necessarily incurred by a service member in relocating a mobile home, including costs incurred before and after its actual shipment. The Comptroller General has no objection to this interpretation and recommends that the Federal Travel Regulations be amended to provide the same rule for civilian employees, in furtherance of the congressional policy. Katherine I. Tang, 65 Comp. Gen. 749 (1986), overruled in part.

DECISION

Mr. John Schilling, an employee of the Department of the Interior, questions the correctness of his agency's allowance of only partial reimbursement of the expenses he

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incurred in relocating his mobile home when he was transferred by the government from Idaho to Arizona in 1986.^{1/} We conclude that his claim for reimbursement was properly settled under the currently applicable provisions of the Federal Travel Regulations. We further conclude, however, that those regulations may be amended under the governing provisions of statute to authorize full reimbursement in future cases of the items of expense he has brought into question, and we overrule in part a prior decision in which we indicated that this would be impermissible.

BACKGROUND

Mr. Schilling was transferred by the Department of the Interior from Emmett, Idaho, to Phoenix, Arizona, in September 1986. In furtherance of this transfer, he arranged to have his mobile home moved at government expense from Idaho to Arizona by a commercial carrier under a Government Bill of Lading.

After the mobile home arrived in Phoenix, however, Mr. Schilling incurred an out-of-pocket expense in the amount of \$300 to have it leveled and blocked at its new site, and he incurred a further expense in the amount of \$663 to have the utilities connected. He received a miscellaneous expense allowance at the maximum rate prescribed for an employee without an immediate family in an amount equal to one week's basic pay, \$558.04, to provide partial reimbursement of these expenses.

Mr. Schilling expresses dissatisfaction at being allowed only partial reimbursement of these expenses, and he suggests that these types of expenses should not be characterized as "miscellaneous" because they are substantial in amount and are necessarily incurred in the relocation of a mobile home. He also notes that these items "being classified as miscellaneous expenses left no allowance for other [actual miscellaneous] expenses such as registering my automobile and establishing electrical and telephone service." He recognizes that the Federal Travel Regulations do not currently provide for separate reimbursement of the mobile home relocation expenses which he has brought into question, but he suggests that the regulations should be amended so that such expenses will

^{1/} This action is in response to a request for a decision received from Mr. Edward M. Hallenbeck, Regional Director, Lower Colorado Regional Office, Bureau of Reclamation, United States Department of the Interior, Boulder City, Nevada.

not be classified as "miscellaneous expenses" in the future.^{2/}

ANALYSIS AND CONCLUSION

Subsection 5724(b) of title 5, United States Code, provides that under such regulations as the President may prescribe, a federal employee who is transferred, and who transports a mobile home inside the continental United States in furtherance of the transfer, is entitled to "transportation" of the mobile home at government expense. In addition, subsection 5724a(b) of title 5 authorizes a miscellaneous expense allowance under prescribed regulations for transferred employees in an amount not to exceed 1 week's basic pay in the case of an employee without an immediate family, or 2 weeks' basic pay in the case of an employee with an immediate family, at a rate not to exceed the maximum pay rate for grade GS-13.

The responsibility for prescribing regulations has been delegated to the Administrator of General Services, who has issued the implementing directives as the Federal Travel Regulations.^{3/} Under those regulations the costs of preparing a mobile home for movement, as well as maintenance and related costs, are specifically excluded from the reimbursable expenses allowable for the "transportation" of a mobile home.^{4/} Conversely, the following expenses are specifically included as items which are to be covered by the miscellaneous expense allowance--

"(1) Fees for disconnecting and connecting appliances, equipment, and utilities involved in relocation * * *;

"(2) Fees for unblocking and blocking and

^{2/} Mr. Schilling also states that he was able to unblock the mobile home and disconnect the utilities himself in Idaho, so that he incurred no out-of-pocket expenses for preparing it for shipment. He suggests, however, that any necessary labor costs an employee may incur for these services should properly be classified as transportation rather than miscellaneous expenses under the regulations.

^{3/} FTR, incorp. by ref., 41 C.F.R. § 101-7.003.

^{4/} FTR, para. 2-7.3a(3).

related expenses in connection with
relocating a mobile home, * * *;"5/

These provisions of the Federal Travel Regulations have the force and effect of law, and under the regulations transferred federal employees may be provided with reimbursement only through the miscellaneous expense allowance for their out-of-pocket costs associated with the relocation of a mobile home before and after its actual movement, including the costs of blocking and unblocking, disassembling and reassembling the home, and disconnecting and reconnecting the utilities.6/ In addition, in our decision in Katherine I. Tang, B-222053, July 29, 1986, 65 Comp. Gen. 749, we expressly held that--

"Lastly, as to Ms. Tang's contention that the Federal Travel Regulations discriminate against mobile home owners, the Federal Travel Regulations are statutory regulations implementing the basic statutory entitlements for transferred employees. * * * (T)here is no specific statutory provision allowing for the reimbursement of the expenses associated with preparing a mobile home for shipment and the subsequent reassembling of the home. Consequently, the expenses of preparing and reassembling may only be made under the statutory provision for reimbursement of miscellaneous expenses which is limited to a maximum reimbursement of 1-week's pay for an employee without immediate family. See 5 U.S.C. 5724a(b)."

In view of the foregoing, it is our conclusion that in the present case the Department of the Interior properly settled Mr. Schilling's claim for reimbursement of the expenses he incurred in relocating his mobile home. Moreover, it does not appear that he has actually challenged that settlement, but instead recognizes that the current provisions of the Federal Travel Regulations required that his agency classify the expenses at issue as "miscellaneous" rather than "transportation" expenses.

We have reexamined the statutory basis for the transportation of the mobile homes of transferred federal employees in light of Mr. Schilling's comments, however, and we have

5/ FTR, para. 2-3.1b.

6/ See, for example, Duane C. Hollan, B-206426, May 24, 1982; and Edelmiro Amaya, B-201645, December 4, 1981.

reached the conclusion that the broad authority provided by the statute is sufficient to permit the amendment of the Federal Travel Regulations in the manner he suggests. That statutory basis, now codified in 5 U.S.C. § 5724(b), is derived from legislation enacted by the Congress in 1958.^{7/} A congressional report concerning that legislation contains this statement regarding its purpose--

"This bill * * * would permit the payment * * * to civilian employees, for transportation of house trailers within the continental limits of the United States * * * in the same manner as a recent amendment to the Career Incentive Act of 1955 (69 Stat. 22), which authorizes such allowances for moving the house trailers of military personnel. * * * This [has] entailed considerable * * * discrimination against employees who live in house trailers, since the amendment of 1955 authorized the payment to military personnel but did not provide the same entitlement to civilian employees of the Government." (Emphasis added.)^{8/}

Other comments contained in the report also indicate that the concerned members of Congress had examined the wording and the history of the 1955 legislation relating to military personnel, as well as the implementing administrative directives contained in the military Joint Travel Regulations, and had noted that the new proposal was "patterned after similar authority enacted for the benefit of military personnel."

The statutory provision for military personnel derived from the 1955 legislation referred to in the legislative report is codified at 37 U.S.C. § 409, and it broadly authorizes reimbursement of the "cost of transportation" of the mobile homes of transferred service members without specifically providing separately for the expenses inherently associated with the relocation of a mobile home before and after its actual movement. The implementing statutory regulations

^{7/} Public Law 85-326, February 12, 1958, 72 Stat. 14.

^{8/} H.R. Rep. No. 1285, 85th Cong., 2d Sess., reprinted in 1958 U.S. Code Cong. & Ad. News 2197, 2198.

issued by the service Secretaries which appear at subparagraph U5505-D, Volume 1 of the Joint Federal Travel Regulations,^{9/} include the following among the reimbursable "transportation" expenses, however--

"12. labor costs for blocking and unblocking (including anchoring/unanchoring) at origin and destination;

* * * * *

"17. disconnecting and connecting utilities;

"18. labor cost for removal and installation of skirting;

"19. cost of separating, preparing, and sealing each section for movement and reassembling the two halves of a double-wide mobile home;"

Other provisions of statute and regulation provide for the payment of a dislocation allowance to transferred service members.^{10/} The dislocation allowance for service members is generally designed to cover expenses similar to those reimbursed by the miscellaneous expense allowance of civilian employees, but expenses necessarily incurred in the relocation of a mobile home are not among the items for which the dislocation allowance was established.^{11/}

It thus appears the Congress intended that transferred service members and civilian employees who reside in mobile homes have essentially the "same entitlement" to reimbursement of the expenses of relocating their homes, and similar legislation has been adopted broadly authorizing the "transportation" of a "house trailer or mobile (home) dwelling" for both military and civilian personnel under

^{9/} Effective January 1, 1987. Identical provisions were contained in paragraph M10004, Volume 1 of the Joint Travel Regulations, superseded effective the same date.

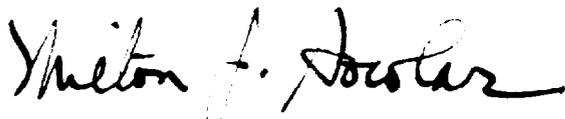
^{10/} 37 U.S.C. 407; para. U5600 et seq., Volume 1 of the Joint Federal Travel Regulations.

^{11/} See, generally, Colonel William F. Mattimore, USAF, B-221938, February 3, 1987, 66 Comp. Gen. ___.

prescribed regulations.^{12/} It further appears that the implementing regulations adopted under these provisions of statute are inconsistent, and that, as indicated, the regulations applicable to civilian employees do not include the necessary costs associated with relocating a mobile home before or after its actual movement as reimbursable "transportation" expenses.

We have reviewed the matter and have concluded that the term "transportation" as used in 5 U.S.C. § 5724(b) need not be construed as applying only to the costs related to the actual movement of a mobile home. Rather, we conclude that the term may properly be applied to cover the necessary costs of preparing a mobile home for shipment, as well as the costs of installing the home at its new site after the shipment is completed. The above-quoted statement in Katherine I. Tang, is overruled.

Accordingly, we have no objection to the amendment of the Federal Travel Regulations to make them consistent with subparagraph U5505-D, Volume 1, of the Joint Federal Travel Regulations, and we recommend to the Administrator of General Services that the regulations be so amended, in furtherance of the congressional policy that transferred service members and civilian employees have equivalent entitlements with respect to the transportation of a mobile home.



~~Acting~~ Comptroller General
of the United States

^{12/} Compare 5 U.S.C. § 5724(b) and 37 U.S.C. § 409.