



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Lawrence P. Zatkoff - Relocation Travel - New
Appointee

File: B-231688

Date: December 2, 1988

DIGEST

1. A newly appointed federal judge seeks an extension to the 2-year time limitation to begin family travel and ship his household goods to his first duty station. The request is denied since under para. 2-1.5a(2) of the Federal Travel Regulations, the maximum time authorized to initiate travel and transportation is 2 years with an up-to-1-year extension authorized only in situations involving reimbursable real estate transactions.
2. A federal judge, who was unable to sell his residence and move closer to his duty station within the 2-year period authorized for family travel and movement of household goods, seeks reimbursement for the cost of commuting between his old residence and his new station. The claim is denied since the Federal Travel Regulations do not authorize payment for the expenses of daily commuting between the employee's official station and his residence, regardless of the distance involved.

DECISION

This decision is in response to a request from the Director, Administrative Office of the United States Courts, concerning the entitlement of a United States District Judge to be permitted a 1-year extension of the 2-year period authorized to begin travel and transportation incident to his appointment as a federal judge. We hold that he is not so entitled for the following reasons.

BACKGROUND

The Honorable Lawrence P. Zatkoff was appointed as a United States District Judge in the District Court for the Eastern District of Michigan, and he entered onto duty June 6, 1986. Prior to his appointment, the judge resided in Memphis, Michigan, approximately 53 miles from Detroit, but upon his

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appointment he intended to sell his old residence and move closer to Detroit.

In spite of his efforts to sell that residence, he was unable to do so before June 6, 1988, the expiration date of the 2-year period authorized under the Federal Travel Regulations (FTR) to begin family travel and transportation of household goods.^{1/} Prior to that expiration date, Judge Zatkoff sought a 1-year extension, but the Administrative Office denied his request. Judge Zatkoff has now appealed that denial and has requested that, if an extension of time cannot be granted, he be reimbursed for his round-trip travel between his residence in Memphis, Michigan, and his official duty station at the United States Courthouse, Detroit, Michigan.

RULING

Section 5723(a) of title 5, United States Code, as amended by Public Law 98-151, November 14, 1983, 97 Stat. 977, provides in part that, subject to regulations, an agency may pay to any person appointed by the President to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16: (1) travel expenses, (2) the transportation expenses of the immediate family and (3) shipment of the household goods from the place of residence at the time of selection to the new duty station. The regulations implementing this provision are contained in para. 2-1.5a(2) of the FTR, which provides:

"(2) Time limits for beginning travel and transportation. All travel, including that for the immediate family, and transportation, including that for household goods allowed under those regulations, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment, except that:

"(c) The 2-year period shall be extended for an additional period of time not to exceed 1 year when the 2-year time limitation for completion of residence transactions is extended under 2-6.1e."

^{1/} FTR, para. 2-1.5a(2) (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1986).

Paragraph 2-6.1e of the FTR governs extensions of time to complete reimbursable real estate transactions. However, the reimbursement for real estate expenses is a benefit that is only available to federal employees who are transferred in the interest of the government from one official station to another for permanent duty. 5 U.S.C. § 5724(a)(1) (1982). Thus, where an employee is not authorized real estate expense reimbursement, the extension of time authorized in the FTR, para. 2-1.5a(2)(c), does not apply and the travel of a new appointee and immediate family and transportation of household goods must be initiated within 2 years of the date the appointee reports for duty at his new duty station.

We have held that the provisions of the FTR, being statutory regulations, have the force and effect of law and may not be waived or modified by an employing agency or our Office. Charles W. Miller, 60 Comp. Gen. 295 (1981); Ralph D. Christensen, B-226341, Dec. 29, 1987; David C. Funk, B-227488, Dec. 29, 1987. Therefore, this time limitation specified in these regulations may not be modified or waived regardless of the circumstances, except as provided within the regulations.

In the alternative, Judge Zatkoff seeks to be reimbursed for the numerous commuting trips made between his residence in Memphis, Michigan, and the United States Courthouse in Detroit during the 2-year period. This claim may not be allowed since an employee's right to be reimbursed travel expenses is strictly limited to that authorized by statute and the FTR. As a general proposition, reimbursement for round-trip travel by a federal employee is authorized only while he is performing temporary duty travel under orders away from his official duty station. Furthermore, it is a well-established rule that an employee must bear the cost of transportation between his residence and his official duty station, absent statutory or regulatory authority to the contrary. Gilbert C. Morgan, 55 Comp. Gen. 1323 (1976); Jack M. Buntin, B-189114, Feb. 14, 1978; Lloyd Chynoweth, B-203978, Mar. 11, 1982. No provision is made in the FTR to reimburse an individual for daily commuting travel from his residence to his official duty station, regardless of the distance involved.

for Milton J. Fowler
Comptroller General
of the United States