



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Eldean K. Minary - Relocation Expenses
File: B-250724
Date: May 2, 1994

DIGEST

1. Transferred employee is not entitled to payment of temporary quarters subsistence expenses (TQSE) since the distance between his new official station and his old residence is not more than 40 miles greater than the distance between his old residence and his old official station, as required by the Federal Travel Regulation. This mileage limitation has the force and effect of law and may not be waived in any individual case.
2. An employee who was transferred between duty stations located 41 miles apart, under orders providing for transportation and temporary storage of household goods utilizing the actual expense (GBL) method. The agency paid the carrier directly for such services, including 90 days of temporary storage and movement into and out of storage. Subsequently, the agency decided that the storage should not have been authorized because of the short distance involved and seeks collection from the employee for the costs. Since there is no regulatory, short-distance limitation in the FTR precluding temporary storage reimbursement, and since such storage was authorized and arranged by the agency, there is no legal basis to retroactively assess the costs against the employee.
3. Transferred employee was authorized movement of household goods by the government under the actual expense (GBL) method, and most of his goods were moved by that method. However, he elected to move 840 pounds of household goods himself. He is entitled to be reimbursed his actual costs for moving the 840 pounds (gas, oil, etc.), but not in excess of what it would have cost the government to move the goods as part of a shipment of his goods in one lot by government bill of lading using a commercial carrier.
4. Transferred employee may be reimbursed for the cost he paid of an owner's title insurance policy incident to his purchase of a residence only if such insurance was purchased by the employee as a prerequisite to obtaining financing or to the transfer of title, not as a matter of prudence for

his own protection. In this case the record does not establish that the insurance was a prerequisite for obtaining financing or transferring title; therefore, it is not reimbursable.

DECISION

The Bureau of Reclamation, United States Department of the Interior, requests a decision as to the propriety of reimbursing certain relocation expenses incurred by Mr. Eldean K. Minary, an employee of the agency, and canceling a Bill of Collection issued to him.¹ Mr. Minary has submitted a reclaim travel voucher in the amount of \$9,400.80, a portion, \$7,136.91, representing relocation costs that were previously reimbursed by the Bureau. The remaining portion of the amount claimed, \$2,102.14 for temporary quarters subsistence expenses (TQSE), and \$161.25 for the cost of an owner's title policy, were previously disallowed and not reimbursed by the Bureau of Reclamation.

BACKGROUND

Effective July 15, 1991, Mr. Minary transferred from Scotia, Nebraska, to Palmer, Nebraska, a distance of 41 miles. His travel orders authorized payment of temporary quarters subsistence expenses (TQSE) not to exceed 30 days pending the arrival of his household goods. The travel orders were amended in August 1991 to authorize an additional 30 days of TQSE, for a total of not to exceed 60 days.

The record shows that the distance from Mr. Minary's old residence to his new official station is 53 miles. The distance from the employee's old residence to his old official station is 16 miles, a difference of 37 miles. In regard to TQSE, the Federal Travel Regulation (FTR), 41 C.F.R. § 302-5.2(h) (1991), provides in pertinent part, that:

"An employee or members of his/her immediate family shall not be eligible for temporary quarters expenses when the distance between the new official station and old residence is not more than 40 miles greater than the distance between the old residence and the old official station, except that the expenses of temporary quarters are allowable for the period during which the employee

¹The request was submitted by Ms. Sandra L. Inglefield, Authorized Certifying Officer, Bureau of Reclamation, Denver Office.

is awaiting the arrival of his/her household goods shipped from the old to the new residence"

Mr. Minary traveled to his new duty station on July 23, 1991. He states that as a result of his change of duty station, he chose to sell his old residence in Ord, Nebraska. He purchased a new residence in Grand Island, Nebraska, near his new duty station, on September 13, 1991.

The Bureau paid the amount claimed by Mr. Minary on his original travel voucher for temporary quarters for the period July 25 through August 23, 1991, but did not pay the claim for the second 30 days of temporary quarters. A portion of the Bill of Collection, \$2,673.03, is to collect the alleged erroneous payment of TQSE from July 27 through August 23, 1991, based upon failure to meet the 40-mile regulatory limitation. Mr. Minary's reclaim voucher seeks payment of the total amount claimed for TQSE for the entire period of temporary quarters occupancy from July 7 through September 19, 1991.²

Mr. Minary also shipped and stored household goods in connection with his transfer. The Bureau authorized transportation and temporary storage of his household goods under a government bill of lading (the actual expense method). On this basis 17,160 pounds of his household goods were moved by commercial carrier at government expense. He also filed a voucher, including weight receipts, claiming reimbursement for an additional 3,870 pounds of personally transported household goods. The Bureau reimbursed Mr. Minary for 840 pounds of the additional amount, bringing his total up to the maximum allowable statutory weight limit of 18,000 pounds. The reimbursement was computed based on the commercial carrier's line haul rate and the Bureau asks whether this is the correct basis.

The Bill of Collection also includes an amount of \$4,463.88 for household goods storage and the extra transportation costs for moving the goods into and out of storage which the Bureau feels should not have been incurred due to the short distance between Mr. Minary's old and new duty stations. Mr. Minary is reclaiming this amount.

In addition, the reclaim voucher includes a claim of \$161.75 for Mr. Minary's cost (one-half) of an owner's title policy

²Mr. Minary does meet the minimum requirements for authorization of relocation allowances under which we presume the agency authorized relocation allowances. FTR § 302-1.7.

incurred in connection with the purchase of a residence at his new duty station.³

The Bureau asks several questions concerning the relocation entitlements of Mr. Minary which will be answered in our determination of the validity of his claims.

ANALYSIS

With respect to entitlement to reimbursement of TQSE, we have consistently held that regardless of the reason for authorizing payment of the allowance, FTR § 302-5.2(h) (quoted above), clearly imposes the 40-mile limitation on authorization and payment of the allowance. When a transfer involves a difference in commuting mileage of 40 miles or less, the allowance may not be paid.⁴ This mileage limitation has the force and effect of law, and may not be waived. Since the difference in Mr. Minary's commuting distance was only 37 miles, he had no entitlement to reimbursement of TQSE, except for a possible limited period awaiting arrival of his household goods "shipped from the old to the new residence."⁵ We have held, however, that the regulation contemplates only the limited period of a delay caused by factors related to the transportation of the household goods, as distinguished from a delay caused by the inability of the employee to locate or obtain possession of his new residence.⁶ Here, the record shows that Mr. Minary incurred temporary quarters expenses while seeking and obtaining possession of a residence at his new duty station not due to a delay related to transportation of household goods. Accordingly, he has no entitlement to TQSE in these circumstances.

In regard to the extra charges of \$4,463.88 for transportation into and out of storage and for storage of household goods, paid to the carrier, the Bureau indicates these charges would not have been incurred had the goods been

³Per agreement with the seller, Mr. Minary and the seller shared equally the cost of this insurance.

⁴See Travis D. Jackson, B-218513, Feb. 28, 1986, Jack R. Valentine, B-207175, Dec. 2, 1982; Kenneth A. Wendland, B-193903, June 19, 1979.

⁵The fact that he may have been erroneously authorized TQSE is not determinative of his entitlement. It is well established that the government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees. See Wendland, cited in note 3.

⁶See B-168458, Dec. 22, 1968.

transported directly from Mr. Minary's old to his new duty station. In view of the following, we do not believe the record supports collection of these charges from Mr. Minary.

Payment by the government of the costs of temporary storage of household goods is authorized when such storage is incident to transportation of the household goods at government expense, FTR § 302-8.5. Temporary storage in connection with an authorized shipment of household goods is allowable for an initial period of not to exceed 90 days, with a possible extension of up to an additional 90 days when justified, FTR § 302-8.2(d). Under the actual expense method as used in this case, the government arranges for the necessary transportation and temporary storage and pays for the cost thereof direct, FTR §§ 302-8.3(b) and 302-8.5(b)(2) (1991). Here, Mr. Minary's travel orders authorized transportation and temporary storage of household goods (within prescribed weight limits), and the Bureau of Reclamation authorized, arranged, and paid the carrier directly for the transportation (in and out of storage) and temporary storage for approximately 90 days. Mr. Minary's orders contained no restriction on temporary storage, and the FTR contains no limitation on temporary storage similar to the 40-mile limitation on TQSE as previously discussed. While in these circumstances the agency may have been justified in placing a limitation on temporary storage in Mr. Minary's orders,⁷ in the absence thereof, we see no legal basis to charge Mr. Minary for the amount paid by the agency for such services⁸. Accordingly, such costs should not be collected from him

As to the appropriateness of utilizing the carrier's line haul rates as the basis for reimbursing Mr. Minary for the 840 pounds of household goods he personally transported, the rule is that the employee may not be paid or reimbursed more than the cost to ship the total allowable statutory weight allowance of 18,000 pounds in one lot by government bill

⁷Because of the short distance involved, the employee may have been able to make all the necessary arrangements for a permanent residence without the need to store his goods.

⁸The general rule is that except to correct an error apparent on the face of the orders or where facts and circumstances demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence, orders may not be revoked or modified retroactively after the transportation is completed so as to increase or decrease rights that have become fixed under applicable law and regulation. See H.D. Anderson, 57 Comp. Gen. 367 (1978).

lading,⁹ When the employee elects to move a portion of the 18,000 pounds himself, he may be reimbursed the actual expenses he incurred (e.g. vehicle rental fee, material handling equipment, packaging materials, fuel, toll charges, etc.) in moving that portion (in this case 840 pounds), not to exceed what it would have cost the government to move that portion as part of the movement of all the goods in one lot from one origin to one destination by commercial carrier. 41 C.F.R. § 101-40.203-2(b) and (d) (1992). Therefore, Mr. Minary's reimbursement for moving the 840 pounds should be based on such actual expenses, but not to exceed what it would have cost to move that amount as part of a single 18,000-pound shipment by commercial carrier.¹⁰

In regard to the owner's title policy, generally, such a policy is insurance obtained by the employee for his own protection when purchasing a residence, and ordinarily it is not a reimbursable expense. FTR § 302-6.2(d)(2)(i). Reimbursement for such a policy is authorized only if it is a prerequisite to financing or the transfer of the property, or if the cost of the policy is inseparable from the cost of other insurance which is a prerequisite to financing or the transfer of the property. FTR § 302-6.2(d)(ix). In interpreting the regulatory language, we have held that while the purchase of an owner's title insurance policy may have been advisable, the evidence must show that such insurance was purchased by the employee as a prerequisite to obtaining financing, not merely as a matter of prudence for the employee's own protection.¹¹ Since the record does not

⁹See B-187904, Nov. 29, 1977; B-187736, May 31, 1977; B-173557, Aug. 30, 1971.

¹⁰If assistance is required in computing this amount, the agency should contact the General Services Administration which operates the Centralized Household Goods Traffic Management Program for civilian executive agencies. See 41 C.F.R. § 101-40.2.

¹¹See Anders E. Flodin, 64 Comp. Gen. 674, 676 (1985); Dr. William E. Howard, III, B-245457, Feb. 14, 1992, and cases cited therein. By comparison, a mortgage title insurance policy protects the lender against possible defects in the purchaser's title to the property, and its cost is reimbursable provided that it is paid for by the employee on a residence purchased by the employee for the protection of, and required by, the lender. FTR § 302-6.2(d)(viii). See also Michael S. Kochmanski, B-227503, Aug. 20, 1987; Daniel T. Mates, B-217822, June 20, 1985; Charles A. Onions, B-210152, June 28, 1983.

show that Mr. Minary met this criterion, he may not be reimbursed his cost of the owner's title insurance policy.

The claims should be settled in accordance with the foregoing.

for *Seymour E. Juro*
Robert P. Murphy
Acting General Counsel