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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Lieutenant Andrew J. Reinhart, USN

File: B-259663

Date: June 12, 1995

DIGEST

Member's travel order which directed use of government transportation cannot be modified after temporary additional duty travel has been completed to authorize use of privately owned vehicle as advantageous to the government since orders may not be retroactively modified to increase or decrease rights which have become fixed.

DECISION

Lieutenant Andrew J. Reinhart, USN, has requested reconsideration of our Claims Group's Settlement Z-2869179 which denied his claim for transportation allowance plus per diem for a period of temporary additional duty (TAD) in January 1993.

Lieutenant Reinhart was assigned to Seal Delivery Vehicle Team Two, Naval Amphibious Base Little Creek, Norfolk, Virginia, and on December 28, 1992, was issued a travel order directing TAD at the Naval Air Station, Key West, Florida. Travel was to commence on January 7, 1993, and the use of government transportation was ordered. After the order was issued, concern was expressed that military equipment which needed to be safeguarded would arrive at Key West prior to the arrival of the members of the unit responsible for the equipment. Additionally, there were concerns about securing adequate quarters at Key West. Lieutenant Reinhart agreed to travel earlier than the rest of his unit by privately owned vehicle (POV) at his own expense to prevent possible problems. The travel order was modified on December 31, 1992, to show a departure date of January 5, 1993; the requirement that Lieutenant Reinhart use government transportation was not changed.

Lieutenant Reinhart completed his temporary additional duty on February 3, 1993. The next day, his travel order was further modified to read: "Auth POV advantageous to the govt." Lieutenant Reinhart submitted a travel voucher which included an allowance for driving to Key West and he was paid \$1,167.50. However, when the Defense Finance and Accounting Service reviewed the voucher, it disallowed \$692 for mileage and excess travel time because government transportation was directed and available and

Lieutenant Reinhart did not report to the TAD site until 6 p.m., January 7, 1993.

Our Claims Group agreed that the disallowance was proper because the travel orders directed the use of government transportation at the time the travel was performed. While the order was modified after the completion of the travel, such a retroactive modification of orders cannot increase or decrease the rights which have become fixed under applicable statutes or regulations. The only exception to this rule is when there is an error apparent on the face of the order and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended had been omitted through error or inadvertence in preparing the order. 63 Comp. Gen. 4, 8 (1983). Therefore, the settlement found that Lieutenant Reinhart had been properly reimbursed his monetary allowance in lieu of transportation (MALT) plus per diem limited to the constructive costs had government transportation been used.

We agree. The modification of the travel order on February 4, 1993, after the completion of the travel, was without effect and could not retroactively authorize the use of a POV as advantageous to the government. It is clear that the order under which Lieutenant Reinhart traveled was the order contemplated and there was no error or omission in preparing the order. Lieutenant Reinhart had been permitted to begin travel early but had agreed to bear the cost of the POV mode himself.

We affirm the settlement of the Claims Group.

Robert P. Murphy
General Counsel