

DECISION



DIGEST - L. Mil.

THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D.C. 20548

FILE: B-186953

DATE: OCT 19 1976

MATTER OF: Master Sergeant

USA, Retired

DIGEST: Member who shipped his household goods at personal expense from Fayetteville, North Carolina, in September 1971, prior to issuance of retirement orders on November 19, 1971, is not entitled to reimbursement in the absence of emergency or service necessity.

This action is in response to letters dated March 30, and May 13, 1976, from David L. Cleary, Esquire, on behalf of Master Sergeant , USA, Retired, , appealing the determination of our Transportation and Claims Division (now Claims Division), which by settlement dated March 7, 1974, disallowed Sergeant claim for reimbursement of expenses incurred in shipping his household goods from Fayetteville, North Carolina, to Barre, Vermont, incident to his retirement from the United States Army on February 29, 1972.

The record shows that by Letter Orders Number 11-2373, issued by Headquarters, United States Army, John F. Kennedy Center for Military Assistance, Fort Bragg, North Carolina, dated November 19, 1971, Sergeant was relieved from active duty, effective February 29, 1972. His last permanent duty station was Fort Bragg, North Carolina, and his indicated permanent address for retirement purposes was to be Barre, Vermont.

The file reflects that the initial correspondence from the member by which his claim was presented indicated that he moved his household goods from Fayetteville, North Carolina, to Barre, Vermont, during the period March 1-3, 1972. That claim for reimbursement of personal expenditures in connection with the move was disallowed by the United States Army Finance Center, Indianapolis, Indiana, on grounds that the claim was not supported by paid receipts and other documents as required by regulations. After further inquiry by Sergeant , the Finance Center forwarded the claim to the Transportation and Claims Division of this Office on December 26, 1972, as a doubtful claim.

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Our Transportation and Claims Division disallowed the claim because an inventory of the household goods moved provided by Sergeant Brian was not accompanied by receipts, paid bills, or other evidence indicating the actual expenditures incurred in the movement. On appeal, Sergeant provided this Office with a memorandum listing his expenses which he contends were paid in cash. In addition, that memorandum states that the period of the move was September 9-11, 1971.

The file shows that Sergeant contends that in pre-retirement briefings he was informed that he could move his family and household goods 6 months prior to or 1 year after his retirement; that he attempted to check pertinent regulations prior to his moving; and that he was assured by the preretirement briefing committee that he would have no problem collecting on his claim. He further states that he paid the movers in cash and has no cancelled checks, receipts or other records.

Subsection 406(g), Title 37, United States Code (1970), provides in pertinent part that under uniform regulations prescribed by the Secretaries concerned, a member who is retired is entitled to transportation for his baggage and household effects to his home of selection. In accord with the foregoing, the Joint Travel Regulations (1 JTR), provide in paragraph 38260-1 for the shipment of the member's household goods to his home of selection.

Subparagraph 38015-1, 1 JTR (change 220, May 1, 1971), specifically provides that the transportation of household effects is not authorized prior to the issuance of orders except in the case of emergency, exigency of the service, or when required by service necessity, as determined by the appropriate authority of the uniformed service concerned.

The member's orders which relieved him from active duty and placed him on the retired list, were issued on November 19, 1971. However, it appears that the member's household goods were moved at personal expense in September 1971, 2 months before the issuance of those orders. In such circumstances, and notwithstanding the fact that expenses may have been incurred in the move, there is no authority for reimbursement for the household goods movement. B-182643, February 19, 1975. In view of the above, no determination is made as to the sufficiency of the

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evidence presented to establish that expenses were incurred by the claimant and the amount thereof.

It has been held consistently that the receipt of erroneous information by one dealing with a Government official, which information was relied upon by the recipient to his detriment, does not afford a legal basis for a payment from appropriated funds. It is well established that in the absence of specific statutory authority, the United States is not liable for the negligent or erroneous acts of its officers, agents, or employees, even though committed in the performance of their official duties. See 44 Comp. Gen. 337 (1964) and 53 Comp. Gen. 834 (1974).

While it is regrettable that the member may have been misled by erroneous information, that fact is insufficient to authorize payment from appropriated funds.

Accordingly, the action of the Transportation and Claims Division disallowing the claim is sustained.

R.F. KELLER

Acting Comptroller General of the United States

Vice President

TRANSPORTATION

Household effects

Military personnel

Advance shipments

Prior to issuance of orders

AGENTS

Government

Government liability for acts beyond authority

Erroneous information