

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-174937

JAN 2 1973

Mr. M. W. Minnis, Disbursing Officer  
Through Director, Navy Military Pay System  
(OW-11)  
Washington, D. C. 20390

Dear Mr. Minnis:

Reference is made to your letter dated January 7, 1972, (file reference FM80:MO:lwg), with enclosures, requesting an advance decision concerning the legality of making payment for dependents' travel and dislocation allowance to [REDACTED], [REDACTED], in the circumstances described therein. Your letter was forwarded to this Office by endorsement of the Chief of Naval Personnel dated July 21, 1972 (file reference Pers-A243-nk 5304). The request has been assigned PDTATAC Control No. 72-53 by the Per Diem, Travel and Transportation Allowance Committee.

The file shows that the member, following a tour of duty in Vietnam and in Newport, Rhode Island, received Transfer Order No. 880-70, dated September 23, 1970, transferring him on a permanent change of station from the Naval Schools Command, Newport, Rhode Island, to the USS DIRECT, at its homeport, Charleston, South Carolina, with a reporting date of October 24, 1970.

On June 10, 1971, pursuant to Transfer Order No. 880-70, the member's dependents traveled from their residence in Franklin, Virginia, to Charleston, South Carolina, and moved into a furnished apartment which the member leased on June 1, 1971.

On June 21, 1971, Message R212015Z June 1971, issued by the Chief of Naval Operations was received on board the USS DIRECT, changing the vessel's homeport from Charleston, South Carolina, to Perth Amboy, New Jersey, effective September 11, 1971. On August 10, 1971, the member's dependents moved from their furnished apartment in Charleston, South Carolina, and returned to Franklin, Virginia. It was noted that the transportation of household goods was not associated with the travel of the member's dependents in either direction.

You say that inasmuch as the member provided no cogent substantiating evidence to show that the movement of his dependents from

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Franklin, Virginia, to Charleston, South Carolina, was for the purpose of establishing a bona fide residence there, reimbursement of his claimed allowances was disallowed.

By letter dated May 23, 1972, the member contends that by leasing the apartment in Charleston and having his family move there, he established a residence at that location with the intention of remaining there and maintaining it as his residence. He says that the reason he did not move his household goods from Franklin was due to the fact that the apartment in Charleston was furnished. Further, that at the time he leased the apartment he had no knowledge of the ordered change of homeport of the USS DIRECT and stated that it was only because he did not want to move his family to New Jersey that he decided to move them back to Franklin in August 1971, shortly before the homeport change to Perth Amboy became effective.

By first endorsement by the Commanding Officer, USS DIRECT, dated May 23, 1972, the member's statement concerning the vessel's movement was confirmed, stating, "He could have had no knowledge of the homeport change on June 10, 1972, when he established his Charleston Heights residence. After the CNO message on 21 June 1972, he decided to move his family to Virginia vice New Jersey, as authorized."

Section 406 of title 37, United States Code, provides that a member of a uniformed service who is ordered to make a permanent change of station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance, under such limitations as the Secretaries may prescribe. Paragraph M7000-12 of the Joint Travel Regulations specifies that a member is entitled to transportation of dependents at Government expense upon a permanent change of station for travel performed from the old station to the new station or between points otherwise authorized except for any travel of dependents between points otherwise authorized to a place at which they do not intend to establish a residence and that travel expenses of dependents for their travel for purposes other than with the intent to change their residence may not be considered an obligation of the Government.

Thus, a right to transportation of dependents at the expense of the Government is not an allowance payable in all events on the basis that some travel was performed. No right to reimbursement by the Government arises unless the travel may be considered as incident to a change of residence as the result of an ordered permanent change of station for the member in the service. We have consistently held that

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the expense of travel of dependents merely for the purpose of visiting the member, for pleasure trips, or for other purposes not contemplating a change of the dependents' primary residence in connection with a change of the member's permanent station is not an obligation of the Government. See 33 Comp. Gen. 431 (1954) and cases there cited.

Section 407(a) of title 37, United States Code, provides that under regulations provided by the Secretary concerned, a member of a uniformed service whose dependents make an authorized move in connection with his permanent change of station, is entitled to a dislocation allowance equal to his basic allowance for quarters for one month. Paragraph M9000 of the Joint Travel Regulations provides that the purpose of the dislocation allowance is to partially reimburse a member with dependents for the expenses incurred in relocating his household upon a permanent change of station. Paragraph M9003-1 of those regulations provides that the allowance is payable to a member whenever dependents relocate their household in connection with a permanent change of station. Paragraph M9004-2 of the regulations provides that a dislocation allowance will not be payable under certain conditions, including those outlined in paragraph M7000-12 of the regulations.

The only question is whether the member established a bona fide residence in Charleston, South Carolina, pursuant to permanent change-of-station orders. In this regard the word residence is generally used to indicate the place where a person makes his home or lives as distinguished from a place of temporary sojourn. While mere presence at a location with no intention of remaining there for other than a short visit would not, in our opinion, establish a place of residence within the contemplation of the law and regulations, it is recognized that no minimum time at a particular location is required in order to establish a bona fide residence at that location.

Consequently, in the circumstances presented and in the absence of substantial evidence to the contrary we will consider that at the time the member leased the apartment and moved his dependents to that location in Charleston he intended to and did establish it as their residence and that pursuant to his subsequent transfer he reestablished their residence in Franklin. Compare B-176348, October 30, 1972 (52 Comp. Gen. 242).

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Accordingly, the member may be reimbursed for his dependents' travel from Franklin, Virginia, to Charleston, South Carolina, and return to Franklin and paid a dislocation allowance for both moves, if otherwise correct. The vouchers are returned herewith.

Sincerely yours,

R.F.KELLER

[Deputy Comptroller General  
of the United States

Enclosures