

DECISION



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

FILE: B-184853

DATE: AUG 3 1976

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MATTER OF: Ms. Patricia C. Reed - Relocation expenses incident to RIF reemployment by different agency at new location.

DIGEST: The relocation expenses prescribed under 5 U.S.C. §§ 5724a(c) and 5724(e) may be paid by the gaining or losing agency to an employee separated by a RIF and reemployed within 1 year at another geographical location, as though the employee had been transferred in the interest of the Government without a break in service. However, the losing and gaining agency must agree as to which will be responsible for such costs.

This action concerns a request by Mr. R. F. Wisniewski, the Manpower Administrator of the Selective Service System, as to the propriety of their determination to refuse to pay the relocation expenses of Mrs. Patricia C. Reed by a Reduction in Force action (RIF) where subsequent to her separation she was reemployed within 1 year by another government agency at a different locale.

The record shows that Mrs. Reed was hired by the Selective Service System to work in Oconto, Wisconsin, in May of 1968. In November of 1972, the Oconto office was co-located in Marinette, Wisconsin, approximately 13 miles distance. At that time she drove to Marinette to work until June of 1973, at which time her position was terminated due to a RIF by the Selective Service System. On February 25, 1974, Mrs. Reed obtained employment with the Naval Reserve Center in Green Bay, Wisconsin. By letter of March 3, 1975, she requested information from the Selective Service System whether they would reimburse her for moving expenses if she moved her family to Green Bay.

The Comptroller at the National Headquarters of the Selective Service System advised that it is the policy of the National Headquarters not to approve the payment of relocation expenses of a former employee separated by a RIF when hired by another agency and that no exception should be made in the case presented. Also, the denial of the request of Mrs. Reed was based upon the accepted interpretation of the Federal Travel Regulations (FPMR 101-7) para. 2-1.5d(2) (May 1973), which provides as follows:

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"(2) Reemployment after separation. A
former employee separated by reason of reduction in force or transfer of function who within 1 year of the date of separation is reemployed by an agency for a nontemporary appointment effective on or after July 21, 1966, at a different permanent duty station from that where the separation occurred, may be allowed and paid the expenses and other allowances (excluding nontemporary storage when assigned to an isolated permanent duty station within the conterminous United States) in the same manner as though he had been transferred in the interest of the Government to the permanent duty station where re-employed, from the permanent duty station where separated, without a break in service, and subject to the eligibility limitations as prescribed in these regulations."

The National Headquarters of the Selective Service System also cites 53 Comp. Gen. 98 (1973) to support its interpretation of the Federal Personnel Management Regulations. That decision quoting from the syllabus provides that:

"The phrase 'in the same manner' contained in 5 U. S. C. § 5724a(c), which authorizes payment of travel, transportation, and relocation expenses to a former employee separated by reduction in force or transfer of function and reemployed within 1 year, as though the employee had been transferred in the interest of the Government without a break in service to the reemployment location from the separation location, when construed in conjunction with 5 U. S. C. § 5724(e), which provides similar expenses for employees transferred from one agency to another because of reduction in force or transfer of function, permits payment of costs in whole or in part by the gaining or losing agency, as agreed upon by agency heads. Therefore, whether relocation benefits are prescribed under § 5724a(c) or § 5724(e), they may be paid by the gaining or losing agency within a 1-year period. 51 Comp. Gen. 14, 52 Comp. Gen. 345, and B-172594, June 8, 1972, overruled."

Section 5724a(c) of title 5, United States Code, provides that a former employee separated by reason of reduction in force or transfer of function who is reemployed within 1 year to a

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non-temporary appointment at a different geographical location may be allowed travel, transportation and relocation benefits "in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated." The Selective Service System has concluded that no allowance would be authorized by their agency. Section 5724(a) of title 5 of the United States Code provides that the travel, transportation and relocation expenses of an employee who is transferred from one agency to another because of a reduction in force or transfer of function may be paid in whole or in part by the gaining or losing agency as the heads of the agencies decide. The language of section 5724(e), as well as the Federal Travel Regulations, is permissive and vests broad discretion to the individual agencies involved in determining whether or not a reimbursement of relocation expenses may be made to an employee who is separated by a RIF and reemployed within 1 year at another geographical location.

Mrs. Reed may wish to submit her claim to the Naval Reserve Center for its consideration pursuant to 5 U. S. C. § 5724(e), and § 5724a(c).

R.F. KELLER

Deputy Comptroller General
of the United States