

DECISION

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

FILE: B-185454

DATE: JUL 1 1976

MATTER OF: Francis J. Trainor - Collision Damage Waiver Insurance

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DIGEST:

Civilian employee of the Department of the Navy who rented automobile for official business in Naples, Italy, in September and October 1972 may not be reimbursed for cost of collision damage waiver insurance since the statutory regulations then in force, SGTR 3.2c, specifically prohibited payment of the cost of such insurance by the Government. These regulations, having been promulgated pursuant to direct statutory mandate, 5 U.S.C. 5707, had the force and effect of law and absent inconsistency with statute, the General Accounting Office is without authority to waive or modify them, even where extenuating circumstances may exist.

By letter dated September 5, 1975, Mr. Francis J. Trainor requests reconsideration of the Settlement Certificate issued by the Transportation and Claims Division on March 22, 1974, which disallowed his claim, No. Z-2534355, for reimbursement of the cost of collision damage waiver insurance on a rental automobile.

From the file it appears that Mr. Trainor, a civilian employee of the Department of the Navy, rented an automobile for official business in Naples, Italy, in September and October 1972. He paid a total of \$293.08 for the rent of this automobile, \$47.55 of which was a charge for collision damage waiver insurance. The Department of the Navy refused to reimburse Mr. Trainor for the cost of this insurance and, when he subsequently referred his claim to this Office, our Transportation and Claims Division concurred in the Department's action.

Mr. Trainor contends he is entitled to reimbursement because: (1) he was advised to carry this insurance by motor pool personnel at the Naval Support Activity at Naples; (2) he was in a foreign country where damage claims could be settled at the scene by local police; and (3) he was not informed that the cost of this insurance was not reimbursable.

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The authority to pay travel expenses of employees on official business is derived from subchapter 1 of chapter 57 of title 5, United States Code. Section 5707 of this subchapter (as codified by Public Law 89-554, September 6, 1966, 80 Stat. 500) provided in part as follows:

"The Director of the Bureau of the Budget shall prescribe regulations necessary for the administration of this subchapter. The fixing, payment, advancement, and recovery of travel allowances, and the reimbursement of travel expenses, under this subchapter shall be in accordance with the regulations. * * *"

This authority to prescribe regulations was transferred from the Director of the Bureau of the Budget to the President by section 101 of Reorganization Plan No. 2 of 1970, effective July 1, 1970, 35 F. R. 7959, 84 Stat. (Part 2) 2085. The President subsequently delegated this authority to the Administrator of General Services by paragraph (3) of section 1 of Executive Order No. 11609, July 22, 1971, 36 F.R. 13747, effective October 21, 1971. Subsection 10(c) of this Order provided that any regulations previously prescribed by the Director of the Bureau of the Budget or the Office of Management and Budget would remain in effect until amended, modified, or revoked by the Administrator.

The travel regulations in force on the effective date of this Order were those contained in the August 17, 1971, revision of Office of Management and Budget Circular No. A-7, Standardized Government Travel Regulations, effective October 10, 1971, with certain exceptions not here applicable. The Administrator of General Services adopted these regulations by FPMR Temporary Regulation No. A-8, dated October 20, 1971, and they remained in effect until May 1, 1973, when they were superseded by the Federal Travel Regulations, FPMR 101-7.

Section 3.2c of the Standardized Government Travel Regulations provided as follows:

"Damage waiver on rental automobiles.
In connection with the rental of automobiles from commercial sources the Government will

not pay nor will it reimburse employees for the cost of the collision damage waiver or collision damage insurance available in commercial rental contracts for an extra fee. The waiver or insurance referred to is the type offered a renter to release him from liability for damage to the rented automobile in amounts up to the amount deductible (usually \$100) on the insurance included as a part of the rental contract without additional charge. Under decisions of the Comptroller General the agency in appropriate circumstances is authorized to pay for damage to the rented automobile up to the deductible amount as contained in the rental contract should the rented automobile be damaged while being used for official business."

These regulations, having been issued pursuant to a direct statutory mandate, had the force and effect of law. In the absence of a clear showing of some inconsistency with the parent statute, the General Accounting Office is without authority to waive or modify such regulations, even where extenuating circumstances may exist. See B-181180, June 27, 1974, where reimbursement for cost of collision damage waiver insurance was denied even though a supervisor had advised its purchase. See also B-184623, October 21, 1975, where reimbursement for cost of this insurance was denied even though a rental agent had stated its purchase was mandatory but written contract did not so provide.

Accordingly, the disallowance of Mr. Trainor's claim by the Transportation and Claims Division is sustained.

R. F. Keller

Deputy Comptroller General
of the United States