

DECISION



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

FILE: B-186020

DATE: JUN 28 1976

MATTER OF:

DIGEST:

Where a travel allowance is paid to a member of the uniformed services upon the basis of a fraudulent travel voucher claiming reimbursement for travel for dependents upon a permanent change of station move that had not been performed, entitlement to such allowance is subject to the scrutiny of the Court of Claims and possible forfeiture under 28 U.S.C. 2514 (1970), even where there is a reclaim for travel actually performed at a later date in connection with the same permanent change of station move.

This action is in response to a letter dated February 9, 1976, of Mr. , a former member of the United States Army, SSN , which in effect constitutes an appeal from a settlement by the Transportation and Claims Division (now Claims Division) of this Office, dated September 12, 1975, which disallowed his claim for dependent travel from San Francisco, California, to Fort McPherson, Georgia, incident to a permanent change of station assignment.

The record shows that by Special Orders No. 263, dated December 13, 1974, issued by the Department of the Army, Headquarters Presidio of San Francisco, California 94129, the claimant was directed to make a permanent change of station from the Presidio of San Francisco, California, to Fort McPherson, Georgia. Upon completion of his travel to Fort McPherson, the claimant applied for reimbursement for dependent travel and by DO Voucher No. 801499, dated January 10, 1975, he was paid the sum of \$302.75, representing \$174.65 for dependent travel and \$128.10 for a dislocation allowance.

The record further shows that on or about January 17, 1975, Army personnel at Fort McPherson, Georgia, question the validity of the travel voucher filed by the claimant. An investigation

djb

B-186020

was begun and it was developed that the claimant's dependent did not perform travel between December 18, 1974, and January 9, 1975, as certified on the voucher filed by the claimant. The claimant was notified of the results of the investigation on January 20, 1975. The file also shows that on January 21, 1975, the claimant's dependent traveled from San Francisco to Fort McPherson, Georgia.

Following discovery that the travel had not been performed as stated on the voucher, the Army collected the total amount of \$302.75 from the claimant. Subsequently, the claimant was refunded the \$128.10 representing his entitlement to the dislocation allowance.

The rights of a member to receive travel and transportation allowances for transportation of dependents upon a permanent change of station are governed by Volume I of the Joint Travel Regulations (JTR) promulgated pursuant to 37 U.S.C. 406. Paragraph M7000 of the JTR's provides that members are entitled to transportation of dependents at Government expense upon a permanent change of station for travel performed from the old station to the new permanent station or between points otherwise authorized. See also United States, 214 F. 2d 305 (1954).

Section 2514 of title 28, United States Code (1970), popularly referred to as the Forfeiture Statute, provides as follows:

"A claim against the United States shall be forfeited to the United States by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof.

"In such cases the Court of Claims shall specifically find such fraud or attempt and render judgment of forfeiture."

In construing this section, the Court of Claims has emphasized that these provisions should be enforced rigidly to protect the Government against the payment of fraudulent claims. V. United States, 34 Ct. Cl. 171 (1899); V. United States, 35 Ct. Cl. 218 (1900); V. United States, 96 Ct. Cl. 540 (1942).

B-186020

This Office has repeatedly held that where there is a reasonable suspicion of irregularity, collusion, or fraud, that the resolution of such matters is for scrutiny in the courts when the facts may be judicially determined upon sworn testimony and competent evidence and a forfeiture declared or other appropriate action taken. See 41 Comp. Gen. 285 (1961) and 44 Comp. Gen. 110 (1964).

In connection with the foregoing, ~~re-stated in our decision~~
B-159985, October 28, 1966, that:

"Claims against the United States must be based on true facts and it is incumbent upon the claimant to furnish evidence satisfactorily establishing the clear liability of the United States to pay the claim. Where a claim is of doubtful validity it is the practice of this Office to deny payment and leave the claimant to his remedy in the courts under the principles of United States v. United States, 17 Ct. Cl. 288, and United States v. United States, 19 Ct. Cl. 316. * * *"

In the present case the claimant, after traveling to his new duty station, submitted a claim for the cost of dependent travel indicating specifically that his wife had completed travel to the new duty station. Further, he received a cash payment as a result of that claim. Later the validity of the member's claim was questioned because his wife, in fact, had not traveled to the new duty station. Although the member's wife did travel to the new duty station after the validity of the claim was questioned, it is clear that the member submitted a claim and was paid for dependent travel which had not been performed. In the circumstances this Office will not authorize payment of the member's claim for dependent travel. Any relief to which the claimant may be entitled must be determined by the Court of Claims.

Accordingly, the action previously taken by our Claims Division in the matter is sustained.

R.F.KELLER

Deputy

Comptroller General
of the United States