

00884

Wm. Haubert
Civ. Pers.

DECISION



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

FILE: B-186764

DATE: March 3, 1977

MATTER OF: Richard E. Fitzgerald - Relocation expenses
in anticipation of transfer

DIGEST: Employee moved household goods while on detail to new duty station to which he was ultimately transferred 2 months after he returned to old duty station upon completion of detail. Since there was an administrative intent to transfer employee at time employee incurred expenses, reimbursement may be authorized.

This action is in response to an undated submission received by this Office on June 21, 1976, from Mr. Robert Caswell, an authorized certifying officer of the Bureau of Indian Affairs (BIA), Department of the Interior, requesting a decision on a voucher presented by Mr. Richard E. Fitzgerald for reimbursement of the expenses of transporting his household goods from Wyandotte, Oklahoma, to Muskogee, Oklahoma.

The record indicates that on November 18, 1974, Mr. Fitzgerald, a BIA employee, was detailed from his permanent duty station, the Seneca Indian School, Wyandotte, Oklahoma, to the BIA Muskogee Area Office, Muskogee, Oklahoma. This detail ended on December 20, 1974. On February 14, 1975, Mr. Fitzgerald received official notice that his permanent duty station would be transferred from Wyandotte to Muskogee, effective March 2, 1975. Mr. Fitzgerald served a second detail beginning February 19, 1975, and ending on the effective date of the transfer.

During his first detail, the claimant moved his household goods from Wyandotte to Muskogee by U-Haul truck in shipments made on November 26, 1974, and on December 7, 1974. Although Mr. Fitzgerald did not obtain a weight certificate, he is claiming \$856.02 for these shipments under the commuted rate system by estimating a constructive weight of 9,828 pounds based on the space capacity of the rented vehicles. Mr. Fitzgerald's claim for the expenses incurred in moving his household effects was administratively denied on the grounds that no change of station had been authorized prior to their movement, and that reimbursement could not be predicated on an anticipated change of station.

B-186764

All of the expenses involved in Mr. Fitzgerald's relocation were incurred prior to the date on which his travel was authorized. We have held that the reimbursement of moving and relocation expenses incurred prior to and in anticipation of a transfer of official duty station may be allowed if the travel order subsequently issued includes authorization for the expenses on the basis of a "previously existing administrative intention, clearly evident at the time the expenses were incurred by the employee, to transfer the employee's headquarters." 53 Comp. Gen. 836 (1974); 48 id. 395 (1968) (emphasis added). What constitutes a clear intention to transfer an employee depends on the circumstances in each case.

Specifically addressing the issue of when the BIA formulated its intent to transfer Mr. Fitzgerald, and when that intention was communicated to the claimant, the acting Muskogee Area personnel officer states:

"Although consideration was given to transferring Mr. Fitzgerald during the period of his first detail to Muskogee, (November 18 through December 20, 1974), no decision was made and he was returned to duty at Seneca. There was no commitment to him that he would be transferred, and no request of which we are aware, for authorizing the movement of his household effects.

The decision to transfer Mr. Fitzgerald from Seneca to Muskogee, effective March 2, 1975, which was made and communicated to him on February 14, 1975, was based on events occurring after his return to Seneca on December 20, 1974."

In response, however, Mr. Fitzgerald asserts that his transfer "was seriously anticipated on November 18, 1974" and that at that time his employing agency "had a mind set to make the transfer." In a letter dated March 3, 1976, Mr. Fitzgerald indicates that problems developed at the Seneca Indian School where he was the superintendent. He further states that he was told that the first detail was made with the intention to permanently transfer him if the problems were not corrected. In view of the abruptness with which he was detailed, and the seriousness of the problems at the school, Mr. Fitzgerald concluded that he would be permanently transferred and moved his household goods accordingly.

B-186764

In view of the agency's need to expeditiously remove Mr. Fitzgerald from his position as superintendent of the Seneca Indian School and in light of the short time span from the date when Mr. Fitzgerald was first detailed to the Muskogee Area Office to the date when he was permanently transferred to that station, it is our view that, in these highly unusual circumstances, the employing agency must have intended at an early date to transfer Mr. Fitzgerald if the problems at the school were not resolved. This view is reinforced by the statement of the acting personnel officer that the agency considered the transfer during the first detail, and by the fact that the subsequently issued travel authorization allows for transportation of household goods. We conclude, therefore, that at the time Mr. Fitzgerald incurred the expenses for which reimbursement is requested, there was an administrative intent to transfer his permanent duty station.

We note however, that Mr. Fitzgerald has estimated a constructive weight of his household goods based on the space capacity of two rented U-Haul vehicles. Using the constructive weight formula of 7 pounds per cubic foot as provided in para. 2-8.2b(4) and 2-8.3a(3) of the Federal Travel Regulations (FPMR 101-7) (May 1973), Mr. Fitzgerald claims \$856.02 for the shipment of an estimated 9,828 pounds of household effects.

With regard to the evidence necessary to establish entitlement to reimbursement based on volume, we stated in 48 Comp. Gen. 115, 118 (1968) as follows:

"Since the employee failed to obtain the actual weight of his household goods at the time of transportation, he may be paid at the commuted rate only if he is able to show the amount of space occupied by his goods and that the goods were properly loaded in the space available. In establishing the amount of space which would have been occupied by his effects if properly loaded, the employee may submit a list of items transported together with the volume occupied by each based on actual measurement or a uniform table, preferably prepared by a commercial carrier."


Although Mr. Fitzgerald has submitted a statement signed by himself and two others attesting to the capacity of the vehicles, and the fact of their being fully and properly loaded, this Office has

B-186764

not, in light of the cautionary language of FTR para. 2-8.3a(3) permitted reimbursement of the commuted rate based upon constructive weight in the absence of a list of items transported together with the volume occupied by each. 48 Comp. Gen. 115, supra; B-183557, November 18, 1975. Such a list was not submitted here. In the absence thereof, reimbursement under the commuted rate system based upon a constructive weight may not be authorized.

While estimated weights have thus been held to be insufficient for payment on a commuted rate basis, such estimates may, under certain conditions, furnish a basis for reimbursement of actual expenses to the extent that those expenses do not exceed the commuted rate applicable to the estimated weights. 48 Comp. Gen. 115, supra; B-181334, March 28, 1975. However, reimbursement of actual expenses based upon estimated weights is limited to those situations in which the evidence affords a reasonable basis for concluding that the actual weight of the goods transported approximates the estimated weight. Thus, in B-181334, supra, we held that an employee who presented a tersely itemized list of goods could be reimbursed actual expenses upon submitting corroborative evidence. In support of his claim, Mr. Fitzgerald has submitted receipts for the rental of and gasoline purchases for two U-Haul trucks which he states were 16 feet long, 6-3/4 feet wide, and 6-1/2 feet high, for a total of 702 cubic feet each. In addition, he submitted his own statement indicating that the trucks were properly and fully loaded. Corroborating his statement, Mr. Fitzgerald also submitted the statement of two unrelated individuals attesting to the size of the trucks and the fact that the trucks were fully and properly loaded. It is our view that in the circumstances of this case, the above evidence is sufficient to support reimbursement of Mr. Fitzgerald's actual expenses for rental of the vehicle (less any deposit refunded to him), purchase of gasoline, and payment of any applicable tolls. 48 Comp. Gen. 115, 118, supra.

The reclaim voucher is returned for processing in accordance with the above.


Acting Comptroller General
of the United States