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DECISION



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

FILE: B-190755

DATE: June 15, 1978

**MATTER OF: Dr. Karl G. Kessler - Travel expenses
while on leave**

- DIGEST:**
1. Employee stationed in Washington, D.C., area traveled to France on temporary duty. Upon completion of official business he traveled to vacation point on authorized leave of absence. His leave was terminated by directions to return to Washington. Where circumstances of employee's recall to duty fall within criteria suggested in 39 Comp. Gen. 611 (1960), authorization of 5 or more days' leave and recall to duty within 24 hours of arrival at leave point, agency may reimburse expenses of travel from leave point to temporary duty point, notwithstanding absence of applicable agency regulation. B-190645, January 25, 1978, distinguished.
 2. Employee claims reimbursement of wife's travel expenses and forfeiture of hotel deposit incident to cancellation of approved leave. There is no authority which would provide a basis to pay claimed expenses. See B-176721, November 9, 1972.
 3. Employee on approved annual leave in France upon completion of official business there, claims reimbursement for cost of conversion of special-excursion-fare ticket to regular fare ticket upon cancellation of leave due to receipt of order to return to Washington, D.C. Payment may be allowed where entitlement to excursion fare was nullified due to early departure on official business.

This action responds to the request by Ms. Emma Axline, an authorized certifying officer of the National Bureau of Standards (Bureau), U.S. Department of Commerce, for an advance decision

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concerning whether Dr. Karl G. Kessler, an employee of the Bureau, may be reimbursed travel expenses and the cost of a forfeited hotel deposit incident to returning from leave in Les Eyzies, France, to duty at his permanent duty station.

The record shows that Dr. Kessler, by Travel Order No. W79224, dated April 27, 1977, was authorized travel expenses incident to temporary duty in Europe. Dr. Kessler's travel order stated that the period of travel would be from about August 31, 1977, to about September 23, 1977, and that Dr. Kessler would be allowed to take annual leave for the period September 13 through 23, upon the completion of his temporary duty at his final official stop in Orsay, France, a suburb of Paris. Dr. Kessler was accompanied by his wife on his trip to Europe. The Bureau paid round-trip special excursion fare for Dr. Kessler's air travel from Baltimore-Washington International Airport to his final destination of Orsay, France. Dr. Kessler also paid for a similar excursion-rate round-trip ticket for his wife's travel.

Dr. Kessler completed his scheduled assignment at Orsay, France, on September 13. On the following day Dr. Kessler, on annual leave, traveled by a rented automobile with his wife from Paris, France, to Les Eyzies, France. Later the same day, due to an unexpected development at Bureau headquarters in Washington, the agency cancelled Dr. Kessler's leave. He was ordered to return to Washington as quickly as possible. Dr. Kessler and his wife drove by rented car from Les Eyzies, to the Bordeaux Airport and flew to Paris. The following day Dr. and Mrs. Kessler departed Paris for Washington, D.C. As a result of their early departure Dr. and Mrs. Kessler were no longer eligible to fly at the special-excursion rate and had to pay an additional amount for regular-fare tickets.

Dr. Kessler's claim is in the amount of \$636.05 which represents the costs that he and his wife incurred as the result of cancellation of his annual leave. Dr. Kessler claims the amount of \$55.70 for the cost of car rental for the drive from Les Eyzies to Bordeaux. He also claims the amount of \$134 for the two tickets for their air travel from Bordeaux to Paris and \$416.35 for the cost of converting his own and his wife's round-trip air travel tickets from special-excursion fare to regular fare. Lastly, Dr. Kessler claims the amount of \$30 for the costs of a non-refundable hotel deposit which he forfeited due to the cancellation of his annual leave.

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Concerning Dr. Kessler's claim for reimbursement for travel expenses incurred by his wife, there is no authority under the Federal Travel Regulations (FPMR 101-7) (May 1973) to allow payment for such expenses. Payment, therefore, may not be allowed.

Regarding Dr. Kessler's claim for travel expenses incident to his travel from his leave point at Les Eyzies to Paris, we considered in 39 Comp. Gen. 611 (1960), a proposed Air Force regulation which provided for payment of return travel expenses, where due to unforeseen circumstances, an employee was recalled to his permanent duty station very shortly after arriving at his point of leave. Since the proposal was subject to a variety of interpretations, we proposed that the regulation contain language providing that the Government would assume the travel expenses when an employee on a period of authorized leave of 5 days or more, was recalled within 24 hours after his arrival at his point of leave. This language is now incorporated into paragraph C4555-4, Volume 2 of the Joint Travel Regulations.

The Joint Travel Regulations are not applicable to Dr. Kessler's travel and we have been informally advised that the Department of Commerce has no regulations concerning the payment of travel expenses for an employee who is called back to duty from his point of leave. However, the circumstances of Dr. Kessler's recall to duty fall within the criteria we suggested in 39 Comp. Gen. 611, supra, authorization of 5 or more days of leave and recall to duty within 24 hours after arrival at the point of leave. While we held in Matter of Paul P. Magallanes, B-190646, January 25, 1978, that reimbursement for travel from the employee's leave point after he had used the majority of his scheduled leave at that point was not allowable where the agency had not adopted regulations specifying an appropriate factor other than time of recall with regard to payment of travel expenses incident to a recall to duty, we did not intend that the absence of an agency regulation would prevent the reimbursement of travel expenses in those instances where the recall to duty satisfied the criteria suggested in 39 Comp. Gen. 611 (1960). Accordingly, we will not object to a determination by the agency that Dr. Kessler should be reimbursed for the expenses he incurred in traveling from his leave point at Les Eyzies to Paris.

Concerning his round-trip air travel from Paris to Washington, D.C., Dr. Kessler has claimed reimbursement of the cost of converting

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his air ticket from excursion to regular fare. The Bureau has advised us informally that incident to his air travel Dr. Kessler had been authorized a special-excursion-fare ticket based on the total time he expected to remain in Europe. But for Dr. Kessler's planned period of annual leave, he would have qualified only for an excursion-fare ticket which is intermediate in cost between the special-excursion fare and the regular fare. Since Dr. Kessler had to advance the scheduled date of his departure, he was no longer eligible for either excursion fare and had to convert his round-trip ticket to the regular fare. Since the Bureau authorized Dr. Kessler's purchase of the special-excursion-fare ticket and as his loss of eligibility therefor was directly related to his early departure on official business, Dr. Kessler should be allowed reimbursement for the additional cost of his Paris-to-Washington air travel.

We are unaware of any authority which would permit Dr. Kessler to be reimbursed for his hotel deposit which was forfeited due to the cancellation of his approved leave. The hotel deposit was a personal expense and there is no basis upon which the deposit would become a Government obligation upon the cancellation of his approved leave. See B-176721, November 9, 1972.

In accordance with the above, Dr. Kessler's reclaim voucher should be certified for payment with respect to his travel from Les Eyzies to Paris and the additional cost of his Paris-to-Washington air travel. The remainder of his claim for his wife's travel expenses and his forfeited hotel deposit may not be allowed.


Acting Comptroller General
of the United States