

DECISION



13573 ^{Plm-1}
Mr Volpe

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

FILE: B-194448

DATE: April 28, 1980

MATTER OF: Neil Gorter - [Claim for Return Travel Expenses
from Overseas Location]

DIGEST: Employee was relieved of obligation to complete 2-year tour of duty at overseas post because he was transferred to second overseas post for benefit of Government. Although he did not complete tour of duty at second duty point because he transferred at own request to United States, employee is entitled under Federal Travel Regulations, para. 2-1.5a(1)(b), to return travel and transportation expenses not to exceed cost from first overseas post to place of residence in United States since he completed first overseas tour and has unused entitlement for return travel and transportation.

This decision is in response to the request from Mr. Robert E. Cavanaugh, Authorized Certifying Officer, Department of the Interior, concerning the entitlement of Mr. Neil Gorter, an Interior employee, to return travel and transportation expenses from an overseas duty post. The issue presented for our decision is whether an employee who is relieved of the obligation of completing a tour of duty overseas because of a transfer to a second overseas post of duty is entitled to return travel and transportation expenses from the second overseas post of duty when he does not serve the full time required by the second service agreement. AGC 07033

The record indicates that on September 25, 1976, Mr. Gorter was transferred from Sacramento, California, to Agana, Guam, and in connection with that transfer Mr. Gorter signed an employment agreement to remain at the nonforeign overseas post for a period of 2 years. On August 10, 1978, Mr. Gorter was reassigned with his consent to a foreign overseas post, Majuro, Marshall Islands. Since the reassignment was for the benefit of the Government, Mr. Gorter was relieved of his obligation to remain in Agana, Guam, a full 2 years, but he signed a new 2-year agreement incident to this change of duty station. Mr. Gorter was later transferred at his own request to Portland, Oregon, effective September 9, 1979, after completing only slightly more than 1 year of the 2-year service agreement. In this regard, the agency raises three questions:

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1. Whether Mr. Gorter is eligible for return travel and transportation expenses on the basis of fulfilling his agreement to remain at Agana, Guam;
2. If not, whether the agency is otherwise liable for return travel and transportation expenses; and
3. Whether employees should specify the original points of recruitment within the continental United States as their places of residence when they are transferred between overseas duty points.

Under the provisions of 5 U.S.C. §§ 5722 and 5724 (1976) and the implementing regulations, Federal Travel Regulations (FTR), an employee who is transferred to a post of duty outside the continental United States is entitled to travel and transportation expenses to his post of duty and return subject to certain conditions. With regard to return travel and transportation expenses, FTR para. 2-1.5a(1)(b) provides, in pertinent part, as follows:

"* * * Except as precluded by these regulations upon separation from service the expenses for return travel, transportation, moving, and/or storage of household goods shall be allowed whether the separation is for the purposes of the Government or for personal convenience. However, such expenses shall not be allowed unless the employee transferred or appointed to posts of duty outside the conterminous United States shall have served for a minimum period of not less than 1 nor more than 3 years prescribed in advance by the head of the agency * * * or unless separation is for reasons beyond the control of the individual and acceptable to the agency concerned. In addition, the head of the agency shall consider requiring a service agreement in connection with the transfer of employees not otherwise covered by this part; the agreement shall provide that in determining any employee indebtedness for violation of such agreement, credit shall be given to the extent of any unused entitlements he may have earned for return travel and

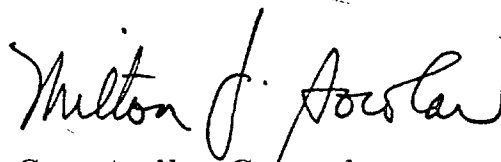
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transportation to his place of actual residence for separation."

Regarding question 1, Mr. Gorter completed his initial service agreement since he was relieved of his obligation to complete the full 2 years of service because of a transfer for the benefit of the Government. He, therefore, had an unused entitlement for return travel and transportation from Guam to his place of actual residence. Thus, he is entitled to return travel and transportation expenses from Majuro, Marshall Islands, not to exceed the cost of such travel from Agana, Guam, to Sacramento, California. Since question 1 is answered in the affirmative, we need not answer question 2.

The agency points out that upon reassignment to Majuro, Marshall Islands, Mr. Gorter listed his place of overseas residence as Agana, Guam, but he did not list his actual place of residence. In the absence of information to the contrary, we believe that Sacramento, California, may be considered Mr. Gorter's actual place of residence. See also FTR para. 2-1.5g(3). We agree, however, that to avoid confusion employees who transfer between overseas duty stations should again state their actual places of residence.

Accordingly, Mr. Gorter may be reimbursed for return travel and transportation expenses consistent with the above discussion.

A handwritten signature in dark ink, appearing to read "Milton J. Auster". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

For The Comptroller General
of the United States