

DECISION



17402
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

17402

FILE: B-198961

DATE: March 18, 1981

MATTER OF: Colonel James Roche, USAF

DIGEST: Air Force colonel is not entitled to reimbursement for the travel of his dependent daughter from her college in New York to his new duty station in West Germany during her semester break since the daughter did not travel to Germany with the intention of establishing a permanent residence there but only for a brief visit.

This action is in response to a letter from the Accounting and Finance Officer, Headquarters 435th Tactical Airlift Wing (MAC), forwarded by Headquarters United States Air Force, requesting an advance decision as to whether Colonel James Roche, USAF, is entitled to reimbursement for travel of his dependent daughter from her college in New Rochelle, New York, to Rhein-Main Air Base, Germany, in December 1978. The request was assigned Control No. 80-21 and forwarded to this Office by the Per Diem, Travel and Transportation Allowance Committee. We find that Colonel Roche is not entitled to reimbursement under the given circumstances.

Entitlement to

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Colonel Roche was reassigned on a permanent change of station from McGuire Air Force Base, New Jersey, to serve an accompanied tour of duty at Rhein-Main Air Base, West Germany, but concurrent travel was not authorized for his wife and six dependent children at that time. Colonel Roche completed his travel to Rhein-Main on April 23, 1978, but he elected and was authorized to have his dependents travel at a later date. In July 1978 an order authorizing the travel of his wife and five of their children to his new permanent duty station in September 1978 was issued. A separate dependent travel order, authorizing travel for Colonel Roche's sixth child from his old duty station to his new duty station in December 1978, was also issued in July. In September 1978 Mrs. Roche and five children left the old station to join Colonel Roche in Germany. The sixth child departed from the old station to attend college in New York at approximately the same time.

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In December 1978 the remaining dependent traveled from her college in New Rochelle, New York, to Rhein-Main. Her trip was completed on December 24, 1978. Government transportation was used for the trans-Atlantic portion of the trip only. In late January 1979, the daughter returned to New Rochelle at her own expense to resume her studies. The record indicates that the fall term had ended prior to the daughter's departure from New York, and that the college was closed during the break between the fall and spring terms. In addition, the record states that the daughter had pre-registered for the spring term before leaving the campus in December. Colonel Roche filed a dependent travel voucher on February 6, 1979, covering her travel to Germany.

The issues presented to us for determination are:

(1) Does the rule stated in B-155344, January 15, 1965, in which the Comptroller General denied reimbursement to an Air Force officer whose dependent daughter traveled during a spring recess from Wrightstown, New Jersey, where she attended high school, to Bermuda, where he was stationed, govern the outcome here? Is it significant that the travel in this case commenced after the completion of the fall term rather than during the course of a semester?

(2) If the period of time between the fall and spring terms is considered to be a recess, and travel during this period at Government expense is not allowed, then should the period between the spring and fall terms also be considered a recess? Is the length of time between terms a determining factor?

In response to question 1, the rule in B-155344 does dictate that Colonel Roche be denied reimbursement under the given circumstances. Under the provision of 37 U.S.C. 406, authority is provided for the transportation of a member's dependents incident to a permanent change of station. Paragraph M7000, Volume 1, Joint

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Travel Regulations (1 JTR), promulgated pursuant to that authority, provides for transportation of dependents at Government expense upon permanent change of station of the member, except such expense may not be considered an obligation of the Government (paragraph M7000-13) for any travel of dependents between points otherwise authorized in the regulations to a place at which they do not intend to establish a residence. We have consistently held that travel of dependents may not be considered to be within the intent and purpose of the law and regulations authorizing such travel unless the travel actually is performed for the purpose of a change of residence in connection with a change of station of the person in the armed services. Reimbursement for travel of dependents for other than such purpose or for visits or pleasure trips is not authorized. 33 Comp. Gen. 431 (1954); B-155344, January 15, 1965; and 53 Comp. Gen. 667, 669 (1974).

In B-155344, the dependent did not intend to establish a residence at her father's new duty station. Rather, she traveled to Bermuda with the intention of returning, after a short stay, to Wrightstown to complete the scholastic year. The Comptroller General considered that under such circumstances, travel could not be regarded, within the contemplation of the applicable regulations with respect to travel of dependents, as having been performed for the purpose of changing her residence.

The same holds true for Colonel Roche's daughter. The fact that she commenced travel after the close of the fall term rather than during the course of the semester is not a significant point of distinction. At the time at which she traveled to Rhein-Main, Ms. Roche intended to return to New Rochelle to complete the academic year. It appears that she did not travel to Rhein-Main with the intention of establishing a residence there, but for the purpose of spending the relatively short semester break visiting with her family. Therefore, the exception set forth in 1 JTR, paragraph M7000-13 applies.

Question 2 appears to be hypothetical since it is not directly related to the payment before the disbursing

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officer. We nonetheless offer the following observations in order to avoid subsequent confusion. In deciding whether travel to a member's station is for the purpose of establishing a permanent residence, we regard the dependent's intent at the time the travel is performed as determinative. While the length of the time spent at the member's station is a factor to be considered in making a judgment as to that intent, it is not determinative in and of itself. In other words, we do not regard the fact that the break between the spring and fall terms is significantly longer than the break between the fall and spring terms as critical. If Ms. Roche had traveled to her father's new station at the close of the academic year with the intention of remaining there indefinitely, her travel expenses would be reimbursable. If, however, she had not intended to remain with her family at the new station, reimbursement would not be allowed.

Milton J. Fowler

Acting Comptroller General
of the United States