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DECISION



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

FILE: B-204296

DATE: December 9, 1981

MATTER OF: Sergeant Richard E. Felker, Retired

DIGEST: Retired military member seeks travel expenses for himself and dependents incident to his permanent change of station in 1973. Member has no copy of his travel orders nor does military recordkeeping entity. Accordingly, since relevant statutes and implementing regulations require written orders from competent authority for payment of travel expenses, and the burden is on the claimant to satisfactorily prove his claim, claim is denied. See 37 U.S.C. §§ 404 and 406; and 1 JTR, paras. M3000 and M3001.

Mr. Richard E. Felker appeals the Claims Group's denial of his claim for personal and dependent travel expenses incident to a permanent change of station while he was a military member. Since no travel expenses may be paid a military member in the absence of competent orders and neither Mr. Felker nor the Department of the Army has furnished us with such orders, the action of the Claims Group is affirmed.

According to Mr. Felker, he was stationed at Fort Bragg, North Carolina, in early 1973 as a Sergeant in the Army. He was ordered to make a permanent change of station from Fort Bragg to Kaiserslauten, Germany. Incident to this change of permanent station, Mr. Felker requests payment of certain travel and relocation allowances which may accrue to a member in such circumstances. Specifically, he seeks \$16.68 in personal travel expenses from Fort Bragg to Kaiserslauten; \$305.28 for the travel of his dependents, who did not accompany him, from the Fort Bragg area (Fayetteville, North Carolina) to Los Alimitos, California; and \$150 for a dislocation allowance which is paid in connection with certain permanent changes of station.

Although Mr. Felker claims the travel was performed in 1973 and he was retired from the Army in 1974, the record does not show that he made a claim with U.S. Army Finance and Accounting Center (Finance Center) until 1979. Mr. Felker indicates that as early as April of 1973, he requested payment of these travel benefits from the Army. Mr. Felker states that the Army has refused to pay because there is no copy of his travel orders in his file.

The Army wrote to Mr. Felker on August 15, 1979, and advised him to file the necessary forms for reimbursement, including a copy of his travel orders, with the Finance Center. Mr. Felker was advised that if he lacked a copy of his travel orders, he should request a copy from the Military Personnel Records Center in St. Louis, Missouri. Apparently, the Department of the Army was unaware that Mr. Felker had previously done so unsuccessfully. This is verified by a letter of January 16, 1976, to Mr. Felker from the Records Center indicating that there was no record of the orders assigning him to Germany.

Mr. Felker did submit all the necessary forms, except his travel orders, to the Finance Center. By letter of November 1, 1979, the Finance Center informed him that the lack of travel orders precluded payment and that they had been unsuccessful in their attempt to obtain a copy of his travel orders. There are indications in the record that the copy of the travel orders may have been destroyed in January 1979; however, the previously referenced January 16, 1976 letter does indicate there was no copy of the orders on file at that time.

Subsequently, the Finance Center forwarded the claim as doubtful to the Claims Group. This resulted in a denial of the claim for the same reason as the Finance Center's denial. The specific basis for the denial was that the provisions of paragraph M3000 of Volume 1 of the Joint Travel Regulations (1 JTR) preclude reimbursement in the absence of travel orders issued by competent authority. It is from this ruling by the Claims Group that Mr. Felker appeals.

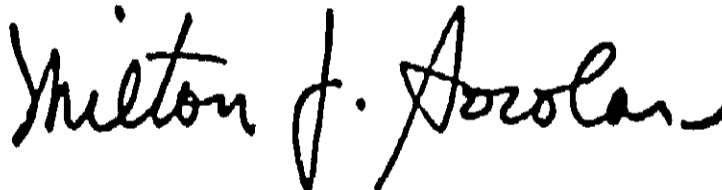
The provisions of 37 U.S.C. 404 and 406 authorize travel and transportation allowances, in accordance with regulations prescribed by the Secretaries concerned, for members of the uniformed services, their dependents and their household effects, upon change of permanent station performed under orders. Paragraph M3000 of the JTR provides that "No reimbursement for travel is authorized unless orders by competent authority have been issued therefor."

Mr. Felker presumably traveled to Germany and returned under travel orders. However, in order to demonstrate what he is entitled to he must furnish a copy of his travel orders.

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This he has failed to do. We have consistently held that the burden does not rest with this Office to refute claims presented for settlement or the allegations upon which such claims are based. The burden is on the claimant to prove his claims and establish the legal liability of the United States and his right to the payment. See 18 Comp. Gen. 980 (1939) and 31 Comp. Gen. 340 (1952).

In Mr. Felker's case we have no evidence that the travel expenses claimed were incurred in accordance with orders authorizing such travel. Travel claims are usually made, processed and paid within a short time after travel is performed. When claims are processed in a timely manner the required documentation and other support is readily available. For some reason this claim was not presented in the usual manner and settlement was delayed. Had the claimant pursued his claim to settlement at an earlier date the necessary documents would have been available. At this time despite the efforts of all concerned it has been impossible to reconstruct what took place and what the claimant's travel entitlements might have been. Thus we cannot ascertain if any amount remains unpaid. Accordingly, in the absence of the orders which would satisfactorily prove his claim, we have no alternative but to sustain the Claims Group's disallowance.

for 
Comptroller General
of the United States