

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20540

26312

**FILE:** B-207030

**DATE:** September 21, 1983

**MATTER OF:** Robert E. Demmert - Travel and  
Transportation Expenses - Temporary  
Appointment - Alaska

**DIGEST:**

Temporary employee was offered and accepted a permanent position with the Forest Service in Alaska while serving in California. The appointment was deferred due to hiring freeze of January 1981. He was then offered a temporary position in Alaska pending lifting of freeze. He resigned his position, had a break in service from March 14 to 25, 1981, and traveled at his own expense to accept the temporary appointment. After hiring freeze was lifted, employee was again offered permanent appointment. He accepted and his temporary appointment was converted to a permanent one. Claimant, because of break in service, may be reimbursed travel and transportation expenses as a new appointee in traveling to accept a temporary position at a post of duty outside the continental United States under 5 U.S.C. § 5722 (1976), even though travel authorization has not been issued.

This decision is in response to a request by Ms. Anita R. Smith, Authorized Certifying Officer, National Finance Center, United States Department of Agriculture (USDA), for an advance decision as to whether a travel voucher in the amount of \$826.84, representing travel and transportation expenses incurred by Mr. Robert E. Demmert, an employee of the Forest Service, USDA, may be certified for payment. For the reasons hereafter stated, the voucher may be certified for payment.

According to the record, Mr. Demmert was originally employed as a seasonal employee, Park Technician (Interpretation), at the Death Valley Monument, Death Valley, California, by the National Park Service. He was offered, and accepted, a permanent career-conditional

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appointment as a Surveying Technician, GS-5, at the Tongass National Forest, Ketchikan, Alaska, by the Forest Service. The effective date of the appointment was to be February 22, 1981, with a reporting date of March 2, 1981. However, before a travel authorization could be processed, the hiring freeze of January 1981 was imposed on Federal agencies. Mr. Demmert's appointment was deferred pending the lifting of the hiring freeze.

In March 1981, officials at the Tongass National Forest contacted Mr. Demmert and asked if he would accept a temporary appointment as a Civil Engineer Technician, GS-5, pending the lifting of the hiring freeze. Mr. Demmert accepted the appointment, resigned his position with the Park Service, and traveled from Death Valley, California, to Ketchikan, Alaska, at his own expense. A travel authorization was not issued. Subsequent development of the record showed that Mr. Demmert had a break in service from March 14 to March 25, 1981, and that he reported for duty at Ketchikan on the latter date.

The hiring freeze was lifted in April 1981, and Mr. Demmert was again offered the career-conditional appointment at Tongass. He accepted and his temporary appointment was converted to permanent career-conditional. Subsequently, Mr. Demmert requested reimbursement of travel expenses from Death Valley, California, and transportation expenses for his household goods from Arlington Heights, Illinois. The Forest Service denied his request for reimbursement of travel and transportation expenses.

Mr. Demmert disagrees with the determination by the Forest Service in denying reimbursement of the travel and transportation expenses he incurred. He contends that he was not a local hire but was recruited from the "lower 48" and, as such, is entitled to reimbursement of the claimed expenses. The employee states that he did not travel to Alaska to accept a temporary position but to accept work in lieu of a permanent position pending the lifting of the hiring freeze.

The Forest Service states that it has a Regional policy which provides that it is not advantageous to the Government to pay transfer costs for temporary appointments. The Forest Service contends that the appointment of Mr. Demmert to a permanent position was an employment conversion and not a transfer of station. It also contends that prior to

the conversion, Mr. Demmert's official station was Ketchikan, Alaska, and it remained so after the appointment to the permanent position.

The certifying officer has asked several questions based upon the conclusion that Mr. Demmert was involved in a transfer of official station from Death Valley, California, to Ketchikan, Alaska. However, as stated earlier, the claimant was appointed to the temporary position in Alaska after he had a break in service from March 14 to March 25, 1981. As such, he is considered to be a new appointee. See paragraph 2-1.5e(1)(a), Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Therefore, this decision will not address the specific questions asked by the certifying officer, but will address the issue of whether Mr. Demmert, as a new appointee, is entitled to reimbursement of travel and transportation expenses incurred in traveling to accept a temporary position at a post of duty outside the continental United States. Our answer is in the affirmative.

Section 5722(a)(1), Title 5, United States Code, provides, that under such regulations as the President may prescribe (this authority has been delegated to the Administrator of General Services), an agency may pay the travel expenses of a new appointee and transportation expenses of his immediate family and his household goods from his place of actual residence to the place of employment outside the continental United States. The implementing regulations are found in Chapter 2 of the FTR. Specifically, FTR para. 2-1.2a(3) includes new appointees to any positions outside the conterminous United States and FTR para. 2-1.3 states that travel and transportation expenses are payable to new appointees from their places of actual residence at the time of appointment to permanent duty at official stations outside the conterminous United States. However, 5 U.S.C. § 5722, the basic authority for this portion of the regulation, does not make any distinction between transfers to permanent or temporary positions. Compare 41 Comp. Gen. 434 (1962).

The case before us is strikingly similar to the facts and circumstances involved in B-164051, July 10, 1968, which also involved an employee with a break in service that required him to be treated as a new appointee. The employee in B-164051 was informed at the time of the temporary appointment to Anchorage, Alaska, that upon his attaining

career status, shipment of his household goods would be allowed and further, that it was intended by the Anchorage office to extend to the employee all rights, privileges, and responsibilities that would have occurred if the office had been able to offer him the permanent position initially. There we held that the fact that the employee was serving under a temporary appointment, which was later converted to a permanent appointment in accordance with prior intention, was not material to his entitlement to be reimbursed for his travel and transportation expenses.

In B-164051, we concluded that the employee was entitled to the benefits payable under 5 U.S.C. § 5722, concerning reimbursement of travel and transportation expenses of new appointees to posts of duty outside the continental United States, even though his initial appointment at that location was temporary. The term "continental United States" is defined in 5 U.S.C. § 5721(3) as not including Alaska. Accordingly, here, since Mr. Demmert had a break in service and was, in actuality, a new appointee to a position outside the continental United States, he is entitled to reimbursement of the claimed travel and transportation expenses which he incurred in traveling to Alaska. FTR paras. 2-1.2a(3) and 2-1.5g(2)(a) and (b). See also B-171495, March 4, 1971.

The absence of a travel authorization is not fatal to the allowance of Mr. Demmert's claim. Although the Federal Travel Regulations do not expressly state what constitutes the authorization for incurring travel expenses, travel orders are generally recognized as being the authorizing document. Thus, in the ordinary case, the agency's intention to authorize a transfer is objectively manifested by the execution of travel orders. Here, the Forest Service made an offer of a temporary position to Mr. Demmert pending the lifting of the hiring freeze which is ample evidence of the agency's intention to appoint him to a position in Alaska. Orville H. Myers, et al., 57 Comp. Gen. 447 (1978). Accordingly, it is our view that the Forest Service had knowledge of and approved Mr. Demmert's appointment and travel to Alaska.

In light of the foregoing, we conclude that Mr. Demmert is entitled to reimbursement of the travel and transportation expenses in the sum of \$826.84, which he incurred in traveling from Death Valley, California, to Ketchikan,

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Alaska, to accept a temporary position with the Forest Service. The travel voucher may be certified for payment, if otherwise correct.

for *Milton J. Rowland*  
Comptroller General  
of the United States