

**DECISION**

26711  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-208155**DATE:** July 12, 1983**MATTER OF:** Charles L. Steinkamp - Relocation Expenses

**DIGEST:** The claimant transferred from a position in the Office of the Architect of the Capitol to one in the Department of Energy as a manpower shortage category appointee. There was no transfer between agencies for the purposes of 5 U.S.C. § 5724a because the Office of the Architect of the Capitol is not included within the definition of "agency" under 5 U.S.C. § 5721. Therefore, the claimant is limited to recovering the expenses allowed under 5 U.S.C. § 5723 for manpower shortage positions, and he is not entitled to the additional relocation expenses allowable under 5 U.S.C. § 5724a.

The issue in this case is whether Mr. Charles L. Steinkamp, a reinstated career Government employee of the Department of Energy (DOE), is entitled to be reimbursed for relocation expenses, under 5 U.S.C. § 5724a (1976), after transferring to the DOE in Harahan, Louisiana, as a manpower shortage category employee, from a position with the Office of the Architect of the Capitol in Washington, D.C.

Because the Office of the Architect of the Capitol is not an agency within the meaning of 5 U.S.C. § 5721 (1976), we hold that Mr. Steinkamp is not entitled to relocation expenses under 5 U.S.C. § 5724a, but is limited to those expenses already allowed under 5 U.S.C. § 5723 (1976).

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In Settlement Certificate Z-2834504, April 29, 1982, our Claims Group determined that Mr. Steinkamp, as a manpower shortage category appointee, was entitled to reimbursement for certain travel, transportation, and moving expenses under 5 U.S.C. § 5723, but not for full relocation expenses, including costs incurred for a house-hunting trip, under 5 U.S.C. § 5724a. Mr. Steinkamp has appealed the denial of his claim for relocation expenses to this Office.

Mr. Steinkamp was reinstated as a career employee at the DOE, and, because he was appointed in a manpower shortage category, he was entitled to the benefits listed under 5 U.S.C. § 5723. Mr. Steinkamp was advised by DOE at the time he was hired that his expense reimbursement would be limited to that authorized for manpower shortage category appointees. Entitlement to expenses, beyond those listed in 5 U.S.C. § 5723, including costs incurred for a house-hunting trip, are authorized under 5 U.S.C. § 5724a. Under section 5724a, an agency may allocate funds for relocation expenses of an employee if the employee is eligible and the Government pays for relocation expenses under section 5724(a). To be eligible under section 5724(a), an employee must be, "transferred in the interest of the Government from one official station or agency to another for permanent duty."

Here, even though Mr. Steinkamp transferred from one duty station to another, we believe that in an inter-agency transfer, both agencies must be "agencies" as defined under 5 U.S.C. § 5721. That section provides as follows.

"(1) 'agency' means--

- "(A) an Executive agency;
- "(B) a military department;
- "(C) a court of the United States;
- "(D) the Administrative Office of the United States Courts;
- "(E) the Library of Congress;
- "(F) the Botanic Garden;
- "(G) the Government Printing Office; and
- "(H) the government of the District of Columbia;

but does not include a Government controlled corporation;

"(2) 'employee' means an individual employed in or under an agency;"

"Executive agency" is defined under 5 U.S.C. § 105 to include an Executive department, a Government corporation, and an independent establishment. Because the DOE is an Executive department under 5 U.S.C. § 101, it is also an "agency" under section 5721. The Office of the Architect of the Capitol, however, does not fit this "agency" definition. The Office of the Architect of the Capitol, being part of the legislative branch of Government, is not an Executive agency under section 105, and, therefore, is not an "agency," because it is not a listed Executive department under section 101, nor is it an independent establishment under 5 U.S.C. § 104, nor a Government corporation under 5 U.S.C. § 103. The Office of the Architect of the Capitol does not fit within any of the terms used to define "agency" here, nor is it specifically listed as an agency. Therefore, Mr. Steinkamp's move from the Office of the Architect of the Capitol to the DOE cannot be classified as a transfer between agencies. Cf. Stephen E. Goldberg, B-197495, March 18, 1980 (holding that a transfer of an employee from the Federal Reserve Bank of Boston, not an agency under section 5721, to the Federal Election Commission was not a transfer between agencies). Thus, Mr. Steinkamp is not eligible for relocation expenses, including a house-hunting trip, under section 5724a.

Mr. Steinkamp has suggested that Congress' failure to include the Office of the Architect of the Capitol within the definition of "agency" under section 5721 was an inadvertent mistake, that the law in this area is vague, and that Congress clearly intended to fully compensate Government employees who have changed positions within the Government as he did.

Mr. Steinkamp's interpretation of congressional intent is incorrect. Section 5721 of Title 5, U.S. Code, is derived from sections 18 and 19 of the Administrative Expenses Act of 1946, Act of August 2, 1946, Chapter 744, 60 Stat. 806, 811, 812. In H.R. Rep. No. 901, 89th Cong., 1st Sess. 110 (1966), the report that accompanied the 1966

codification of Title 5 (Pub. L. 89-554, September 6, 1966, 80 Stat. 500), that history is specifically stated. The 1946 Act dealt with the issue of entitlement to relocation expenses when an employee is transferred from one duty station or department to another. Sections 18 and 19 of the Act clearly and specifically excluded the Office of the Architect of the Capitol from the definition of "department". Therefore, under that Act, the employees of the Office of the Architect of the Capitol were not entitled to relocation expenses. With the present definition of "agency" in section 5721 being derived from the 1946 Act, it is clear that Congress' exclusion of the Office of the Architect of the Capitol from the definition of "agency" was not inadvertent. Nor is the statutory language vague or unclear, and there is nothing to indicate any intent to reimburse Government employees for relocation expenses other than those enumerated in the statute.

For the reasons stated above, Mr. Steinkamp is not entitled to reimbursement for relocation expenses, including a house-hunting trip, under 5 U.S.C. § 5724a, although he is entitled to retain the reimbursement already allowed under 5 U.S.C. § 5723.

*you* Milton J. Fowler  
Comptroller General  
of the United States