

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

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FILE: B-215327**DATE:** August 3, 1983**MATTER OF:** Donald Dudley**DIGEST:**

Purchases of toilet articles and personal clothing by an employee while performing temporary duty in emergency circumstances do not constitute miscellaneous expenses necessarily incurred by a traveler in connection with official business under the Federal Travel Regulations nor can such purchases be considered special clothing and equipment for which reimbursement could be authorized under 5 U.S.C. § 7903.

We have been asked to issue an advance decision in regard to an employee's claim for reimbursement of expenditures for purchase of toilet articles, personal clothing, and luggage while on emergency travel.¹ Although the employee acted in the belief that the expenditures were authorized, he is not entitled to reimbursement for the personal items purchased.

At mid-day on November 9, 1983, Mr. Donald Dudley was directed by the Regional Director, Consumer Product Safety Commission, to make an emergency trip from Atlanta, Georgia, to Tampa, Florida, to obtain information regarding an amusement ride at a fair in Lakeland, Florida. His flight departed at 2:27 p.m. Because he was scheduled to return that same evening he was advised that it would not be necessary to stop by his home en route to the airport to pack clothing and other personal items. The assignment was subsequently extended through November 11. Due to the delayed return, Mr. Dudley was instructed by the Deputy Regional Director to purchase clothing and necessary toilet articles and he was advised that he would be reimbursed for these expenditures. Thereafter, he purchased required clothing, toilet articles and a bag for which he has submitted receipts totaling \$208.94. Of that amount \$154.88 was spent on the day of his return to Atlanta. He has explained that in the course of inspecting the amusement ride, clothing he was wearing was torn or damaged.

¹ The Executive Director of the U.S. Consumer Product Safety Commission submitted this request for a decision.

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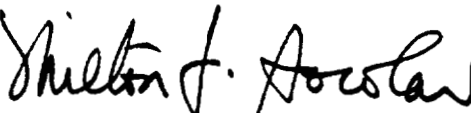
The submission indicates that Mr. Dudley's claim was disallowed by the agency based on our decision B-179057, May 14, 1974. In that case we held that purchases of personal clothing and toiletry items by investigative personnel in a travel status are not miscellaneous expenditures necessarily incurred by a traveler in connection with official business under the Federal Travel Regulations and they may not be regarded as special clothing and equipment within the meaning of 5 U.S.C. § 7903.

The use of Government funds for the purchase of wearing apparel and personal furnishings to be used by employees in connection with their official duties has been the subject of various decisions. In the absence of specific authority therefor the test to be applied is whether the expenditures are essential from the standpoint of carrying out the object of the appropriation involved and are made primarily for the benefit of the Government, or whether the wearing apparel is such as the employee reasonably might be expected to furnish as a part of the personal equipment necessary for him to perform the regular duties of his position. See 3 Comp. Gen. 433 (1924); 32 Comp. Gen. 229 (1952). Under this test, there appears to be no basis for finding that the articles purchased by Mr. Dudley are special clothing and equipment within the provisions of 5 U.S.C. § 7903. See B-179057, May 14, 1974; and Gail H. Christiansen, B-198823, December 10, 1980.

Paragraph 1-9.1d of the Federal Travel Regulations (Supp. 1, September 28, 1981), incorp. by ref. 41 C.F.R. § 101-7.003 (1983), provides that miscellaneous expenditures which are necessarily incurred by a traveler in connection with official business will be allowed. However, clothing constituting ordinary items of wearing apparel and toiletry articles which are retained for personal use are not reimbursable under the regulation. See 35 Comp. Gen. 361 (1955); 45 Comp. Gen. 272 (1965); compare 48 Comp. Gen. 48 (1968). We have denied reimbursement under this authority even in the case of emergency travel where the employee's rapid departure precluded him from first returning home to pack and where he purchased clothing and other personal items because the temporary duty assignment ultimately required him to remain in a travel status for one or more nights. Gail H. Christiansen, B-198823, supra.

As to the clothing that was torn, damaged or totally ruined, the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. § 3721 authorizes agencies to settle claims by Government employees for loss or damage to personal property, incident to service. An agency's settlement of a claim under the Act is "final and conclusive." 31 U.S.C. § 3721(k).

Accordingly, Mr. Dudley may not be reimbursed for the costs for toilet articles, personal clothing and luggage incurred in connection with his temporary duty assignment to Tampa, Florida. Any claim he may have for loss or damage to items of personal clothing should be submitted to his agency under 31 U.S.C. § 3721.

for 
Comptroller General
of the United States