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The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Commander William W. Heilig, Jr., USN

File: B-221765

Date: December 16, 1986

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## DIGEST

Service members traveling under permanent change-of-station orders are eligible under the Joint Travel Regulations for additional travel time and monetary allowances for delays en route taken at ports to await delivery of their automobiles, only if they demonstrate that the delays were caused by circumstances beyond their control. Hence, a Navy officer may not be allowed an additional 10 days' travel time for a delay taken to accept delivery of his automobile at Norfolk, Virginia, while he was en route from Bermuda to Texas, where it appeared he could have avoided the delay by arranging for the timely shipment of the automobile prior to his departure from Bermuda.

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## DECISION

The issue in this matter is whether a Navy officer may be allowed an additional 10 days' per diem claimed for a 10-day delay en route taken at Norfolk, Virginia, during a permanent change-of-station move from Bermuda to Texas, for the purpose of awaiting the arrival of the ship carrying his automobile from Bermuda.<sup>1/</sup> In light of the facts presented, and the applicable provisions of statute and regulation, we conclude that the claim may not be allowed.

## BACKGROUND

In March 1985 Commander William W. Heilig, Jr., USN, received orders reassigning him from Bermuda to Corpus Christi, Texas, on a permanent change-of-station transfer effective in August 1985. The orders authorized the taking

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<sup>1/</sup> This action is in response to a request from the Deputy Disbursing Officer, Personnel Support Activity Detachment, Naval Air Station, Corpus Christi, Texas. The request was forwarded here by endorsement from the Per Diem, Travel and Transportation Allowance Committee after being assigned Committee Control No. 86-4.

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of up to 30 days' leave en route. In compliance with these orders, Commander Heilig traveled by aircraft from Bermuda to Norfolk, Virginia, on August 10, 1985. He remained in Norfolk for 15 days, until August 25. He then traveled to Texas by automobile and reported to his new permanent duty station at Corpus Christi 7 days later on September 1, 1985. A total of 22 days had thus elapsed between the time he arrived in Norfolk on August 10 and the time he reported at Corpus Christi on September 1.

The concerned Navy disbursing officials indicate that Commander Heilig was allowed 5 days' time for automobile travel at the prescribed rate of 300 miles per day for his trip from Norfolk to Corpus Christi, and that he was paid 5 days' per diem predicated on this allowable travel time.

On September 17, 1985, Commander Heilig submitted a request to his new commanding officer in Texas for 10 days' additional travel time. As the basis for his request, he referred to subparagraph M1050-2b, of the Joint Travel Regulations, and he provided this explanation:

"Upon completion of an overseas tour of duty my POV was shipped to Norfolk, Va. Due to transporting ship's schedule/Navy Supply procedures (unloadings, processing, etc), I had to wait nine days after arrival in CONUS for the release of my POV. An additional day was required in order to have the catalytic converter reinstalled."

This request was approved, and as a result Commander Heilig was credited with an additional 10 days of official travel time, and only 7 days of the period between August 10 and September 1, 1985, were charged to leave upon the adjustment of his leave account.

Commander Heilig has now submitted a supplemental travel voucher claiming additional per diem for the 10 days' additional travel time. The concerned disbursing officials express doubt, however, concerning the propriety of allowing the claim, and they question whether Commander Heilig's request for additional travel time was properly approved.

#### ANALYSIS AND CONCLUSION

Subsection 404(a) of title 37, United States Code, provides that under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel

and transportation allowances for travel performed or to be performed under orders upon a change of permanent station.

Implementing regulations are contained in Volume 1 of the Joint Travel Regulations. Subparagraph M1050-2a of those regulations provides that upon a permanent change-of-station transfer, generally, 1 day of travel time will be allowed for each 300 miles of the official distance of the ordered travel when travel is performed by privately owned conveyance. Subparagraph M1050-2b, which was referred to by Commander Heilig in his application for additional travel time, provides:

"b. Additional Travel Time. Additional travel time may be authorized or approved when travel is delayed beyond that authorized in subpar. a for reasons clearly beyond the control of the member, such as: acts of God, restrictions by Government authorities, difficulties in obtaining fuel for privately owned conveyances, or other reasons satisfactory to the member's new commanding officer. The amount of additional travel time so authorized may be the actual period of delay or such shorter periods as may be determined appropriately by the member's new commanding officer. The member will provide his new commanding officer with a full explanation of the circumstances which necessitated the delay and such explanation together with the approval or disapproval of the commanding officer, will be appended to his travel voucher."

We have not previously had the occasion to consider the application of these provisions of statute and regulation in situations involving service members delayed en route at ports to await ships carrying their private automobiles. We have, however, in applying similar provisions of statute and regulation contained in 5 U.S.C. §§ 5701 et seq. and the Federal Travel Regulations, which govern the travel entitlements of federal civil service employees, allowed claims for additional travel benefits in such situations only where there was a clear indication that the delay was caused by circumstances beyond the employee's control. We have allowed additional travel time under this standard in cases where the timely shipment of an employee's automobile from an overseas duty station was precluded due to government-caused delays in the delivery of the employee's travel orders, and where delay

resulted from a closing of the customs office at the port of the automobile's arrival.<sup>2/</sup> Conversely, we have denied such claims in the absence of a clear showing that the delay was caused by circumstances beyond the employee's control.<sup>3/</sup>

In the present case, the regulations upon which Commander Heilig based his application for additional travel time, quoted above, establish the same requirement that permits commanding officers to approve requests for additional travel time only if it is shown that the delay was "for reasons clearly beyond the control of the member." We do not find that the explanation furnished by Commander Heilig demonstrates, in the attendant circumstances, that his 15-day delay en route in Norfolk was caused by circumstances beyond his control. That is, it appears that he received his orders over 4 months in advance of the time of his permanent change-of-station transfer, and he was thus apparently given ample opportunity to arrange for the timely shipment of his automobile. Moreover, it has not otherwise been demonstrated that the delay en route was actually caused by circumstances beyond his control. Instead, every indication in the record before us is that his entire 15-day stay in Norfolk between August 10 and August 25, 1985, was primarily a matter of personal accommodation permitted under the provision in his orders authorizing him to take leave en route.<sup>4/</sup>

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<sup>2/</sup> See Marvin W. Shoaf, B-181344, February 12, 1975; and B-170850, December 31, 1970, and June 9, 1971.

<sup>3/</sup> See, for example, Robert M. Crowl, B-193935, June 18, 1979.

<sup>4/</sup> We also note that there are vehicle ports other than Norfolk, Virginia, closer to Commander Heilig's duty station at Corpus Christi, Texas, to which his automobile could have been shipped. The record does not disclose why a closer port was not selected, and we assume Norfolk was used as an accommodation to Commander Heilig's leave plans. Compare Petty Officer Douglas W. Smith, USN, B-215123, December 4, 1984.

It follows that Commander Heilig's application for 10 days' additional travel time should not have been approved, and that he is not entitled to 10 days' additional per diem or a 10-day adjustment in his leave account.<sup>5/</sup>

Accordingly, we deny Commander Heilig's claim. The voucher, which may not be processed for payment, will be retained here.

*Wilton F. Austin*  
for Comptroller General  
of the United States

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<sup>5/</sup> Compare 49 Comp. Gen. 744, 748 (1970).