



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Floyd W. Davis - Return of Privately Owned Vehicle
of Employee Who Died While on Temporary Duty

File: B-222185

Date: September 25, 1987

DIGEST

When an employee dies while on temporary duty in the United States, an agency head, in conjunction with authorizing payment for the preparation and transportation of the employee's remains back to his duty station, may authorize payment of the expenses of the return of the employee's privately owned vehicle if the employee was authorized to use the vehicle on his temporary duty assignment as being advantageous to the government. 52 Comp. Gen. 493 (1973); B-189826, April 7, 1978, overruled.

DECISION

The question in this case is whether an agency may pay the expenses of returning an employee's privately owned vehicle to the employee's home or permanent duty station after the employee dies while on temporary duty when the employee was authorized the use of his vehicle on his temporary duty assignment as being advantageous to the government.^{1/} For the reasons set forth below, we conclude that the expenses of returning the employee's vehicle may be paid. 52 Comp. Gen. 493 (1973); B-189826, April 7, 1978, overruled.

BACKGROUND

The Air Force directed Mr. Floyd W. Davis to receive training at Scott Air Force Base, Illinois, and at Andrews Air Force Base, Maryland, and then to return to his permanent

^{1/} This responds to a request for a decision from Mr. Yozo Yamada, Deputy Chief, Accounting and Finance Branch, Office of Comptroller, Headquarters, Sacramento Air Logistics Center, McClellan Air Force Base, California. The Per Diem, Travel and Transportation Allowance Committee has assigned the request Control No. 86-6.

duty station in McClellan Air Force Base, California. The Air Force determined that the use of Mr. Davis' privately owned vehicle was more advantageous to the government than other means of transportation, and Mr. Davis used his vehicle to travel to his training assignments beginning in November 1984. Mr. Davis died on March 1, 1985, while still in training at Andrews Air Force Base, and his widow arranged to have his vehicle returned to California at a cost of \$1,400. Although the Air Force is aware of previous decisions of the Comptroller General which deny the expenses of returning an employee's automobile to his permanent duty station when he dies while on temporary duty, the Air Force points out that in this case the use of the automobile was determined to be more advantageous to the government, thereby reducing costs the government would have incurred had travel been performed by another means.

ANALYSIS AND CONCLUSION

When an employee dies in a travel status away from his permanent duty station in the United States, the head of the agency concerned may pay "* * * the expense of preparing and transporting the remains * * *" of the employee to his home or official station. 5 U.S.C. § 5742(b) (1982). Paragraph 3-2.6c of the Federal Travel Regulations,^{2/} implementing 5 U.S.C. § 5742(b), includes the deceased employee's "baggage" within the statutory term "remains" that may be returned to the permanent duty station at government expense. However, paragraph 3-2.6c expressly precludes the return at government expense of the employee's "household goods" or "immediate family" where the employee was performing temporary duty within the conterminous United States. Although the question of whether an employee's automobile may be included within the statutory term "remains" has been previously answered in the negative by decisions of the Comptroller General, upon further consideration we now overrule those decisions because they assigned too narrow a scope to the statutory term "remains" in section 5742(b).

This decision is the first opportunity to conclude the process begun in 1979 when we held, overruling previous decisions, that when an employee is injured and incapacitated on temporary duty, the employee is entitled to have his vehicle returned to his permanent duty station at government expense. Richard L. Greene, 59 Comp. Gen. 57 (1979). In Greene, we referred to the statutory standard pertaining to the return of an injured and incapacitated

^{2/} FPMR 101-7 (Supp. 1, Sept. 28, 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1985).

employee on temporary duty, 5 U.S.C. § 5702(b) (1976), which provided that "appropriate transportation expenses" may be paid to the employee's designated post of duty. The implementing Federal Travel Regulations did not specifically define the reimbursable transportation expenses, but in decisions prior to Greene, we had concluded that the "appropriate transportation expenses" for returning an injured employee to his permanent duty station did not specifically include those expenses necessary to return the employee's privately owned vehicle to the permanent duty station. See 44 Comp. Gen. 783 (1965); B-176128, August 30, 1972.

However, in Greene we overruled those decisions because we concluded that section 5702(b) was enacted to overcome in some measure the inequities and hardships that would arise when an employee became ill or injured while in a travel status if the employee were also compelled to personally assume all expenses including subsistence and transportation costs. We held that since neither statute nor regulations precluded payment of the return expenses for the employee's automobile, such expenses should be paid in order to prevent the kind of financial hardship section 5702(b) was enacted to prevent. Greene, cited above.^{3/} For the same reason, we now hold that the expenses of returning a deceased employee's automobile may be paid.

The legislative history of section 5742(b) places the emphasis on preventing financial hardship when an employee dies while on temporary duty or while stationed overseas. The Senate Report on the bill that was enacted and became 5 U.S.C. § 5742(b) stated:

"The absence of the authority which would be provided by this section frequently results in great hardship to members of the families of low-salaried officers and employees who die while performing official duties in foreign countries, or in Territories or possessions of the United States, or away from their permanent stations in the United States. There have been many pathetic instances where families have been left stranded in foreign countries, and where they have otherwise been put to heavy expense. It seems that

^{3/} See also Patricia A. Bodi, 61 Comp. Gen. 373 (1982), where we authorized the payment of mileage to a fellow employee to transport an employee who was injured on temporary duty back to the injured employee's residence.

the Government is morally obligated to bear the expenses of returning to their homes the remains, families, and effects of such officers and employees." S. Rep. No. 1604, 76th Cong., 3rd Sess. 2, May 14, 1940.

The motive of relieving financial hardship is the same in sections 5702(b) and 5742(b). As was the situation concerning section 5702(b), neither the language in section 5742(b) nor the implementing Federal Travel Regulations specifically include or preclude the payment of the expenses of returning the employee's automobile to his permanent duty station. "Baggage" was not specifically included in the statutory term "remains," but paragraph 3-2.6c of the FTR properly included it as being the kind of a financial expense the statute was enacted to reimburse.^{4/} An automobile, which the employee was authorized to use on temporary duty as being advantageous to the government, should also be included as a similar kind of financial expense the statute was enacted to reimburse.^{5/} Whether an employee is injured and incapacitated or whether he dies while on temporary duty in the United States, the expenses to return the automobile he was authorized to use may be paid.^{6/}

Accordingly, we hold that when an employee dies while on temporary duty, the agency may pay the costs associated with returning that employee's vehicle to the employee's permanent duty station if that vehicle was authorized as being

^{4/} See also the Joint Travel Regulations, Vol. 2, para. C6060 (Change 240, October 1, 1985).

^{5/} In B-189826, April 7, 1978, we concluded that the usual regulatory basis for government shipment of "baggage" or "household goods" could not be used as authority to ship automobiles because those terms were not normally defined to include automobiles, citing 5 U.S.C. § 5727(a) as a major component of the definitional scheme. We do not here disturb that definitional scheme, but expand the definition of "remains" to include not only "baggage" but also an automobile authorized as being advantageous to the government.

^{6/} The record in this case contains only an unsupported statement that an individual was paid \$1,400 to return the deceased employee's automobile across the United States. The Air Force should assure that the automobile was returned and that the expense was reasonable.

advantageous to the government. Our prior decisions in 52 Comp. Gen. 493 (1973) and B-189826, April 7, 1978, are hereby overruled.

for *Harry R. Van Cleave*
Comptroller General
of the United States