

Weldinger



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Lewis R. Miller -- Reimbursable Interagency
Detail -- Relocation Expenses
File: B-224055
Date: May 21, 1987

DIGEST

An employee was detailed from his agency position in Washington, D.C., to a position with a commission in Flagstaff, Arizona. Relocation expenses were authorized for his travel to Arizona in 1982 and for his return travel in early 1984 after the detail was terminated. Although the agency's auditors question the payment of relocation expenses in this situation, we conclude that such payment was proper. Based on the issuance of the orders directing the assignment, the duration of the assignment, and the nature of the duties to be performed, it appears clear that this assignment was a permanent rather than temporary duty assignment.

DECISION

This decision is in response to a request from James Bagwell, Financial Officer for the Navajo and Hopi Indian Relocation Commission. It concerns the entitlement of Mr. Lewis R. Miller to be reimbursed certain relocation expenses incident to duty performed by him with the Commission during the period September 19, 1982, to January 7, 1984. We conclude that he is so entitled, for the following reasons.

BACKGROUND

Mr. Miller was an employee of the Office of Youth Programs, Department of the Interior (the Office), stationed in Washington, D.C., who was recruited by the Commission to become the Assistant Director of Management Operations in Flagstaff, Arizona, under a reimbursable detail arrangement. As part of that recruitment effort, the Commission offered to pay not only his travel and transportation to and from Flagstaff, but all relocation expenses as well. Mr. Miller was required to execute a 1-year service agreement in connection with payment of relocation expenses.

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Under the terms of the detail agreement, the Office and the Commission agreed that Mr. Miller would remain on the employment rolls of the Office during the entire period of the detail and then return to his position at the Office at its conclusion. Further, the Office agreed to maintain Mr. Miller's official time and attendance record and to continue to pay his salary directly, subject to reimbursement by the Commission on a quarterly basis. The Commission agreed to be directly responsible for all other expenses incurred by Mr. Miller incident to the detail. In this regard, the Commission authorized Mr. Miller relocation expenses to Flagstaff by travel authorization dated August 6, 1982.

In October 1983, the Commission advised the Office that Mr. Miller's detail would be terminated in January 1984, since the Commission needed to reduce staffing levels and since Mr. Miller's duties could be absorbed by other staff or contract personnel. By Travel Authorization dated December 7, 1983, Mr. Miller was transferred from Flagstaff to College Park, Maryland, and he was authorized travel and moving expenses in connection with his return reassignment from the reimbursable detail.

In connection with this transfer, Mr. Miller sold his residence in Flagstaff and was reimbursed \$5,129 by the Commission for expenses incident to the sale. Subsequently, auditors for the Office of the Inspector General, Department of the Interior, questioned these payments by the Commission and requested that the Commission recover the payments on the basis that Mr. Miller's detail to the Commission in Flagstaff was a temporary duty assignment which would not permit the payment of relocation expenses.

RULING

Under the laws governing the entitlement of Federal employees to be reimbursed for expenses of travel, transportation and subsistence, chapter 57 of title 5, United States Code, and the implementing regulations, chapter 2 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), an employee may not be reimbursed relocation expenses incident to a temporary duty assignment away from his permanent duty station or place of abode from which he commutes daily to his duty station. Relocation expenses may be reimbursed only when the employee is transferred on a change of official station for permanent duty. Conversely, under paragraphs 1-7.6a and 1-8.1a of the FTR, an employee may not be paid per diem or actual subsistence expenses while at his permanent duty station or his place of abode from which he commutes

daily to his duty station. His entitlement to be reimbursed such expenses is only for periods during which he is on official business away from his permanent station and his place of abode from which he commutes to his duty station.

We have held that the question as to whether an assignment to a particular location is to be considered a temporary duty assignment or a permanent duty assignment is a question of fact to be determined from the orders directing the assignment, the duration of the assignment and the nature of the duties to be performed under those orders. See Bertram C. Drouin, 64 Comp. Gen. 205 (1985); Peter J. Dispenzirie, 62 Comp. Gen. 560 (1983); and Peck and Snow, B-198887, September 21, 1981. Further, the agency designation of an employee's permanent duty station as being at a particular location is not necessarily determinative. Frederick C. Welch, 62 Comp. Gen. 80 (1982).

In the present case, we note that the travel orders authorized relocation expenses consistent with a permanent duty assignment. Further, we note that although the detail agreement between the Office and the Commission was for a 1-year period, the Commission anticipated that Mr. Miller's detail would continue until the statutory authority for the Commission expired in 1986. Finally, it appears that the nature of Mr. Miller's duties, serving on a staff position with the Commission, were those associated with a permanent duty assignment and not a temporary duty assignment. See Drouin and Dispenzirie, cited above.

Therefore, we conclude that Mr. Miller's service with the Commission was a permanent duty assignment and that relocation expenses were properly authorized and payable.

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