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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ronald Rapka - Relocation Expenses

File: B-224631

Date: September 17, 1987

DIGEST

Department of the Navy employee's transfer to a new duty station 45 miles from his old duty station pursuant to a merit promotion was in the interest of the Government. Because the distance between the two duty stations was more than 10 miles and because the employee relocated his residence from 60 miles to 30 miles from the new station, he is entitled to relocation expenses.

DECISION

The issue here involves the claim of a civilian employee of the Department of the Navy for relocation expenses incident to a transfer in which he relocated his residence from a distance of 60 miles to 30 miles from his new permanent duty station. The agency questions whether the transfer was in the interest of the Government and, if so, whether the employee may be reimbursed relocation expenses in view of the relatively short distances involved. For the following reasons, the employee is entitled to reimbursement of allowable relocation expenses.

This decision is in response to a request for a decision from the Counsel for the Military Sealift Command, Atlantic (agency), concerning whether the reimbursement of relocation expenses for a civilian employee, Mr. Ronald Rapka, arising in connection with a permanent change of station (PCS), is proper.

Prior to 1985, Mr. Rapka was employed at Fort Monmouth, New Jersey, as a contract price analyst with the Army. In early 1985, the agency advertised under a merit promotion program for a Deputy Director of Contracts. They selected Mr. Rapka, who was promoted to a higher-grade position and began his new job in Bayonne, New Jersey, on June 24, 1985. The distance between Mr. Rapka's old duty station at Fort Monmouth and his new duty station in Bayonne is approximately 45 miles. The record shows that Mr. Rapka inquired

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about relocation expenses at the time of his interview for employment and was informed that he would receive any relocation expenses authorized in the regulations.

At the time of his selection, Mr. Rapka lived in Bricktown, New Jersey, approximately 17 miles from Fort Monmouth, and 60 miles from Bayonne. In April of 1986, Mr. Rapka contracted to purchase a house in Belford, New Jersey, and he assumed occupancy in July 1986. Belford is approximately 25 miles from Fort Monmouth and 30 miles from Bayonne.

In response to Mr. Rapka's request for reimbursement of his relocation expenses the Civilian Personnel Office of the agency advised him by a memorandum dated June 4, 1986, that he was not entitled to relocation expenses since relocation expenses were not discussed when he was interviewed and hired and no authority exists to issue retroactive permanent change-of-station orders. In addition, the agency cited the fact that it has used a 50-mile radius from job site to residence in defining a reasonable commuting area for the purpose of determining per diem and other employment-related entitlements. In this connection, the agency personnel officials stated that Mr. Rapka "falls within the 50-mile radius in terms of his previous duty station." This statement would appear to have reference to the 45-mile distance between the old and new duty stations.

The payment of travel, transportation and relocation expenses is authorized under 5 U.S.C. §§ 5724 and 5724a. These provisions are implemented by the Federal Travel Regulations (FTR). Paragraph 2-1.3 provides generally that relocation expenses are payable if an employee's transfer is in the interest of the Government and not primarily for the convenience or benefit of the employee, provided the new station is at least 10 miles distant from the old station. In the case of a relatively short distance transfer, FTR para. 2-1.3 requires a determination under FTR para. 2-1.5b(1) that the relocation was incident to the transfer. The agency in making such determinations will take into consideration such factors as commuting time and distance between the employee's residence at the time of notification of transfer and the employee's old and new post of duty as well as commuting time and distance between a proposed new residence and the new post of duty. The regulation further provides that ordinarily a relocation will not be considered incident to a transfer unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from

the old station. Other circumstances may be considered. Paragraph C4108 of Volume II of the Joint Travel Regulations provides essentially the same criteria.

While the agency's Civilian Personnel Officer apparently concluded that Mr. Rapka is not entitled to the relocation expenses, the agency has expressed doubt concerning proper application of the pertinent regulations to his case.

Mr. Rapka's change of station was the result of his selection for a merit promotion. We have held that promotions under a merit promotion program, and the consequent transfers, while obviously benefiting the employee are in the interest of the Government and not primarily for the convenience or benefit of the employee or at his request. Eugene R. Platt, 59 Comp. Gen. 699 (1980).

With regard to the short distance involved, we note that the transfer was between duty stations located 45 miles apart. This is well in excess of the 10-mile minimum required by FTR para. 2-1.3. Moreover, the facts support a determination that Mr. Rapka relocated his residence for the purpose of moving closer to his new duty station. Mr. Rapka's former residence was 17 miles from Fort Monmouth, his old station, and 60 miles from Bayonne, his new station. He moved to a new residence which is only 30 miles from his new station. Thus, it appears that Mr. Rapka's relocation conformed with the guidance provided in the regulations. While the agency may have adopted a 50-mile rule for determining a reasonable commuting area for per diem and other purposes, the application of that rule to determine whether the distance between old and new duty stations meets the criteria for payment of relocation expenses is contrary to the requirements of the controlling regulations. Under these regulations a transfer between duty stations 10 miles apart is sufficient. Commuting distance between residence and duty station becomes relevant only in determining whether the employee's change of residence was incident to the change of station. In this regard, we note that Mr. Rapka moved from a residence more than 50 miles from his duty station to a residence only 30 miles away.

Where a transfer is in the interest of the Government, and the standards discussed above are met, an employee is entitled to relocation expenses regardless of the fact that he may not have received transfer orders authorizing relocation expenses in advance. Since Mr. Rapka's transfer was in

the interest of the Government and since the relocation of his residence was incident to the transfer, he should be reimbursed for his relocation expenses in accordance with the regulations.

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