



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carl R. Leonard - Commuting Costs: Temporary
Duty vs. Permanent Change of Official Station
File: B-226795
Date: August 20, 1987

DIGEST

1. Claim for mileage for commuting between Mitchell, Indiana, and Tell City, Indiana, over a 3-year period is denied since an employee must bear the cost of commuting between his residence and his official duty station.
2. Whether a particular duty station is permanent or temporary is a question of fact to be determined from the orders, and where necessary, from the character of the assignment, particularly the duration and nature of the duty. Where the employee was given permanent duty, change-of-station travel orders, advanced relocation expenses and assigned the same type of field engineering work at the new duty station, the assignment is a permanent duty assignment. The permanent character of the assignment is not affected by the employee's retransfer after 3 years to a prior duty station.
3. Claim for overtime compensation for time spent commuting between Mitchell, Indiana, and Tell City, Indiana, outside of the normal duty hours is denied. The general rule is that time spent traveling between an employee's residence and his permanent duty station is not compensable traveltime.
4. The General Accounting Office will not inquire into matters relating to a grievance. Such matters are within the jurisdiction of the employing agency and the Office of Personnel Management.

DECISION

This responds to a request by Mr. G. E. Tipton, an authorized certifying officer of the Forest Service, United States Department of Agriculture (USDA), for a decision on the claim of Mr. Carl R. Leonard, an employee of the Forest Service. Mr. Leonard, a resident of Mitchell, Indiana, requests \$43,525.85 for mileage and overtime compensation in

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conjunction with his daily commute between Mitchell and Tell City, Indiana, his official duty station during the period of March 5, 1983, to March 7, 1986. For the reasons explained below, Mr. Leonard's claim is denied.

BACKGROUND

At all times pertinent to this decision, Mr. Leonard resided in Mitchell, which is located between Bedford and Tell City, Indiana. On March 15, 1983, Mr. Leonard was issued permanent change-of-station orders effecting his transfer from Bedford to Tell City. At the time, he was advanced \$1,800 for his relocation expenses. Mr. Leonard, for personal reasons, did not relocate his residence; instead, he continued to reside in Mitchell and commuted from Mitchell to Tell City by privately owned vehicle. Each day Mr. Leonard would drive to Tell City, pick up a government car for field use, return it to Tell City at the close of the business day, and drive his privately owned vehicle back to Mitchell. This amounted to a round trip in his privately owned vehicle of 145 miles per day, requiring an estimated 3.5 hours of travel.

In late 1985, Mr. Leonard submitted a claim to the Forest Service for \$11,055.33 for commuting mileage from March 5, 1983, through April 26, 1985. The Forest Service concluded in early 1986 that the claim had no merit. In March 1986, to accommodate Mr. Leonard, the Forest Service reassigned him back to Bedford. In August 1986, the Forest Service deducted the \$1,800 advance for relocation expenses from Mr. Leonard's paycheck.

Subsequently, Mr. Leonard submitted his claim to our Office. Mr. Leonard increased his claim to \$43,525.85, adding in more mileage for commuting expenses and claiming compensation for time he spent commuting to and from Tell City. At the time we received Mr. Leonard's claim, certain events relating to the \$1,800 advance were under a formal grievance proceeding at the USDA. Since that time, the grievance proceeding has been concluded and the results do not affect our determinations about the claim.

OPINION

Mr. Leonard claims total mileage costs of \$12,804.81 for daily commuting during the period from March 5, 1983, through March 7, 1986. The established rule is that an employee must bear the cost of his transportation between his residence and his place of duty at his official station. 60 Comp. Gen. 420 (1981); Carl P. Mayer, B-171969.42, January 9, 1976. Mr. Leonard suggests, however, that he was

in a temporary duty status in Tell City, and that his claim for mileage, therefore, may be paid. We do not agree.

Whether a particular duty station is in fact permanent or temporary is a question of fact to be determined from the orders, and where necessary, from the character of the assignment, particularly the duration and nature of the duty. John J. D'Anieri, B-217574, September 18, 1985. The express terms of Mr. Leonard's travel orders as well as the advance of relocation expenses clearly indicate that a permanent transfer was contemplated. Moreover, we find no indication that Mr. Leonard's duties at Tell City were transitory or in contemplation of another assignment. In D'Anieri, a case with similar facts, we denied the mileage claim because there was no indication that the duties Mr. D'Anieri performed were needed only on a transitory basis or that the need for his services would terminate on a particular date.

Mr. Leonard claims that his reassignment to Bedford in 1986 supports his claim that he was on temporary duty while assigned to Tell City. We have consistently held that even an administrative determination to rescind a transfer does not change the nature of the transfer from permanent duty to temporary duty. See D'Anieri, above, and decisions cited therein. Mr. Leonard cites our decision in Kenneth L. Peck and Mark N. Snow, B-198887, September 21, 1981, as a basis for payment of his mileage claim. In that case, we held that an employee who performed his duties for 2 months at a particular station could be considered on temporary assignment there, but that an employee who performed his duties for 2 years and 9 months was in fact on permanent assignment. Mr. Leonard performed his duties for 3 years and, consequently, the duration of his assignment more closely fits the latter situation in Peck and Snow which we held to be a permanent duty assignment.

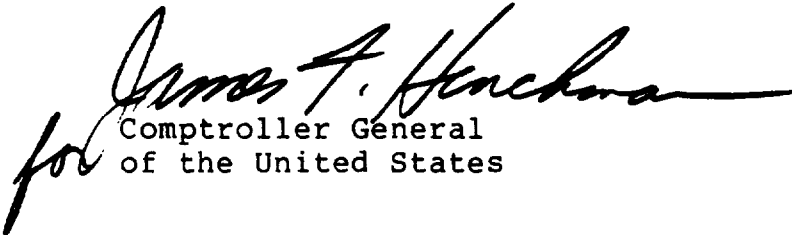
Mr. Leonard also asks for compensation of \$30,715.76 for time he spent commuting to Tell City. Since his commuting time is in addition to his normal full day of work, Mr. Leonard claims compensation for 3.5 hours per day for each of 435 days at an overtime rate of \$20.15 per hour. This claim has no merit. Normal commuting time between an employee's residence and his duty station is not compensable traveltime. B-214494, August 22, 1984; 55 Comp. Gen. 1009 (1976). It follows, and is also the rule, that this time is likewise not compensable overtime. See James G. Genius, B-181347, March 2, 1977; 55 Comp. Gen. at 1011.

Regarding recoupment of the \$1,800 advance Mr. Leonard received in 1983, we find no basis for allowing Mr. Leonard to retain the advance because he did not relocate incident

to his transfer to Tell City. Relocation expenses, for which the advance was made, were not in fact incurred by Mr. Leonard. B-192718, March 14, 1979; Harrison V. Culver, B-164905, August 27, 1968. Accordingly, we hold that Mr. Leonard's claim for \$43,525.85 may not be paid, and that he is liable for repayment of the \$1,800 advance.

Finally, Mr. Leonard asked us to consider issues which he raised during the processing of his grievance proceeding with USDA. The General Accounting Office will not inquire into matters relating to a grievance. Such matters are within the jurisdiction of the employing agency and the Office of Personnel Management. Raymond W. Leone, B-222379, April 10, 1987.

Accordingly, we hold that Mr. Leonard's claim for \$43,525.85 may not be paid, and that he is liable for the \$1,800 advance.

for 
Comptroller General
of the United States