DECISION

THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-183436 DATE: JUL 22 1975

MATTER OF: Dependents' travel, dislocation allowances and household goods transportation - Ralph E. Coates, MM1, USN

DIGEST: Navy member who had permanent change of station to a ship at Norfolk, Virginia, in July 1971 (subsequently at Philadelphia, Pennsylvania), and upon reassignment to another ship at Norfolk, Virginia, in February 1972, moved his dependents and relocated his household, in November 1973, to a location 36 miles from his former residence and there is no showing that the move was necessary as the direct result of the permanent change of station, is not entitled to dependents' travel and dislocation allowances, nor to transportation of household effects at Government expense.

This action is in response to letter dated February 14, 1975, from the Disbursing Officer, U.S.S. Hawkins (DD-873), Fleet Post Office, New York, New York 09501, requesting an advance decision in the matter of the claim by Machinist's Mate First Class (MM1) Ralph E. Coates, USN, [redacted] for dependents' travel allowance and for a dislocation [redacted] in the circumstances described. The request was assigned Control No. 75-15 and forwarded to this Office by Per Diem, Travel and Transportation Allowance Committee endorsement dated May 19, 1975.

By Transfer Order No. 200-06, dated July 16, 1971, the member was directed to proceed from Great Lakes, Illinois, and report to the Commanding Officer, U.S.S. Dahlgren (DLG-12). At that time, the Dahlgren's home port was Norfolk, Virginia. He did not move his dependents who were residing at 1129 Morton Drive, West Miltmore, Illinois, in connection with this assignment. By Transfer Order No. 248-72, dated February 16, 1972, he was directed to proceed from the U.S.S. Dahlgren then located at Philadelphia, Pennsylvania, and report not later than on March 30, 1972, to the Commanding Officer, U.S.S. Claude Ricketts (DDG-5), at Norfolk, Virginia. The member's dependents traveled from 1129 Morton Drive, West Miltmore, Illinois, to 1507 North 40th Avenue, Stone Park, Illinois, on November 23, 1973, where they established a residence. Household goods were shipped at Government expense from the old to the new residence at about the same time.

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The Disbursing Officer expresses doubt as to entitlement to dependents' transportation and dislocation allowances, since the member did not move his dependents to his new duty station but to an area other than the new permanent station many months after entitlement first existed.

The Commander, Navy Accounting and Finance Center, Washington, D.C., in an endorsement makes reference to decision B-158473, March 22, 1966 (45 Comp. Gen. 589), as indicating that while delay in relocating a member's household incident to a permanent change of station does not itself bar payment for the move when made, such delay, when coupled with the fact that the move was made to another location within the same area, is further indication that it must have been for personal reasons rather than the result of the permanent change of station. The view is expressed that the delay of 21 months in the movement of the member's dependents to a location 36 miles from their former residence creates doubt as to the member's entitlement to dependents' travel and dislocation allowances.

In an endorsement, the Chief of Naval Personnel expresses the opinion that the member is entitled to reimbursement for dependent travel and dislocation allowances, since paragraph M7055 of Volume 1 of the Joint Travel Regulations (1 JTR) and 1 JTR Table 7-B-7061, indicate that a member may move his dependents at some time other than at the time of his permanent change of station and that this move may be to a designated place.

Section 406 of title 37, United States Code (1970), states that a member of a uniformed service who is ordered to make a permanent change of station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance, as the Secretaries may prescribe. Accordingly, paragraph M7055, 1 JTR, provides as follows:

> "If a member, upon receipt of permanent change-of-station orders, retains his dependents at the place that they were located when such orders were received, and he receives assignment to some subsequent permanent station, he shall be entitled (upon assignment to such subsequent permanent station) to transportation for his dependents at Government expense not in excess of the

distance from the station from which he traveled when his dependents were so retained to such subsequent permanent station, or from his last permanent station to his new permanent station, whichever is the greater, irrespective of any interim permanent changes of station upon which he did not exercise his rights to dependents transportation."

Paragraph M7063, change 203, December 1, 1969, which was controlling on the effective date of the member's assignment to the U.S.S. Claude Ricketts provided for dependent travel from the old home port to a place other than the new home port or home yard of the vessel upon a member's transfer between vessels. Rule 5, Table 7-8-7061 (change 242, April 1, 1973), currently provides that when a member is ordered on permanent change of station from sea duty to sea duty, transportation of dependents is authorized from the old home port to a designated place.

A member is not required to move his dependents each time his permanent station is changed. However, a right to transportation of dependents at the expense of the Government does not occur in all events on the basis that some travel is performed. Such right does not arise unless the travel may be considered as incident to a change of residence as the result of an ordered permanent change of station for the member. See 33 Comp. Gen. 431 (1954) and cases there cited, and B-155539, January 7, 1965. In this regard, in 45 Comp. Gen. 589, supra, we stated as follows:

"* * * It has been held * * * that while delay in relocating a member's household incident to a permanent change of station does not of itself bar payment for the move when made, such delay, when coupled with the fact that the move was made to another location within the same area, is further indication that it must have been made for personal reasons and not the result of the permanent change of station. * * *"

In the present case, the record does not show that the 36-mile move to Stone Park, Illinois, was necessitated by the change of station to the U.S.S. Claude Ricketts, the move not being made until more than 21 months after the transfer occurred. The foregoing indicates that the move was made for personal reasons, rather

than the result of the permanent change of station. Compare 45 Comp. Gen. 589, supra.

Section 407 of title 37, United States Code (1970), provides that under regulations approved by the Secretary concerned, a member of a uniformed service whose dependents make an authorized move in connection with his change of permanent station is entitled to a dislocation allowance. Paragraph M9003-1, 1 JTR, authorizes the payment of the dislocation allowance, except as therein provided, whenever dependents relocate their household in connection with a permanent change of station. This subparagraph also specifically provided (change 222, July 1, 1971, now contained in subparagraph 2) that a statement from the commanding officer of the new permanent duty station that the relocation was necessary as a direct result of the permanent change of station (other than from or to a restricted area) is required when the permanent change of station is between stations located in the proximity to each other, or when the relocation is between places located in proximity to each other whether or not within the same city.

A member's entitlement to the dislocation allowance is dependent upon a clear and positive showing that his change of residence was necessary as a direct result of an ordered change of permanent station. See B-166739, July 11, 1969. See also B-180505, November 4, 1974. The record herein does not support such entitlement.

The member has not furnished a statement from his commanding officer as required, nor does it appear that such statement properly could be issued in the circumstances.

Therefore, Petty Officer Coates is not entitled to either dependents' travel or dislocation allowances in the circumstances presented.

The record indicates that the member shipped his household goods at Government expense in connection with his move to Stone Park, Illinois. Section 406 of title 37, United States Code (1970), provides that under such conditions and limitations as the Secretaries may prescribe, members of a uniformed service when ordered to make a change of permanent station shall be entitled to transportation of household effects, or reimbursement therefor. However, the member's right to transportation of household effects at Government expense accrues only when the

movement is incident to a change of residence resulting from and made necessary by an ordered change of station. See B-153539, supra.

Accordingly, Petty Officer Coates should be charged with the entire cost of moving his household effects from West Milmore to Stone Park, Illinois, and previous payments should be recovered.

PAUL G. DEMBLING

For the Comptroller General
of the United States