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DECISION



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

FILE: B-197635

DATE: June 6, 1980

MATTER OF: Dr. Robert S. Morton - Shipment of Personal
Effects - [Costs in Excess of Amount Authorized]

DIGEST: Employee is responsible for excess transportation costs where additional shipments of personal effects from Australia exceeded cost of one-lot shipment from England. Limitation in Federal Travel Regulations has force and effect of law and agents of United States Government do not have authority or discretion to waive such provisions regardless of extenuating circumstances. Certain items of immediate necessity for employee can be shipped by air freight; however, total amount allowable for shipment of all effects cannot exceed cost of one-lot shipment.

This decision concerns the appeal of Dr. Robert S. Morton of our Claims Division settlement dated October 17, 1979 (Z-2815863). The settlement denied Dr. Morton relief from liability of a debt to the United States for \$378.85.

Dr. Morton was a visiting scientist who was hired by the Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare, Atlanta, Georgia, under a 1-year fellowship program. 42 U.S.C. §§ 209(g), 210(f) (1976).

In accordance with Dr. Morton's offer of appointment, he was issued Travel Order No. 364301, dated October 5, 1978, which authorized the shipment of 500 pounds of personal effects via surface transportation from Sheffield, England, to Atlanta, Georgia. The agency issued a Government Bill of Lading and arranged to ship Dr. Morton's personal effects from England to Atlanta via Ocean-Air International, Inc. The carrier provided the service based on a quotation rate of \$142.10 per hundredweight, with a minimum weight of 500 pounds. Thus, Dr. Morton's shipment of 93 pounds was billed at the minimum weight of 500 pounds for a total cost of 710.50. In addition, Dr. Morton shipped a chest by air from Australia, and several other cartons of books for a total cost of \$378.35. It is this latter amount that is the basis for Dr. Morton's debt.

Visiting scientists appointed under 42 U.S.C. § 209(g) (1976) are entitled to travel and subsistence expenses as authorized by

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the Surgeon General. See 42 U.S.C. § 210(f) (1976). In accordance with this authority, the Public Health Service has issued regulations governing the selection and appointment of service fellows. The regulations provide for the transportation of 500 pounds of personal effects at Government expense when the appointment of the visiting scientist is for 12 months or less. In addition the regulations provide in section 61.37(b) that:

"* * * A service fellow shall be entitled to travel and transportation allowances authorized in this part at the same rates as may be authorized by law and regulations for other civilian employees of the Public Health Service. * * *"

The regulations referred to are the Federal Travel Regulations (FPMR 101-7) (May 1973) which provide in paragraph 2-8.2d, that: "Cost of transportation of household goods may be paid by the Government whether the shipment originates at the employee's last official station or place of residence or at some other point * * *. However, the total amount which may be paid or reimbursed by the Government shall not exceed the cost of transporting the property in one-lot by the most economical route from the last official station of the transferring employee (or the place of actual residence of the new appointee at time of appointment) to the new official station."

Based on this regulation, the agency determined that the cost of Dr. Morton's personal effects movement could not exceed the cost of a one-lot shipment from Sheffield, England, to Atlanta, Georgia, or \$710.50. Thus, Dr. Morton was responsible for the cost of the additional shipments from Australia.

Dr. Morton bases his protest of the debt on inadequate information and guidance by Government officials, and the late arrival of his travel orders and confirmation letter of appointment (the travel orders arrived 2 days before his departure - the letter of appointment after he had reported to duty).

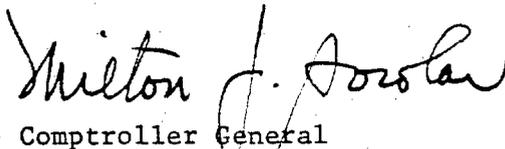
The record indicates that Dr. Morton's contentions are true. However, the Public Health Service regulations were issued pursuant to the statutory authority in 42 U.S.C. § 210(f) (1976), and incorporate provisions of the Federal Travel Regulations which in turn are derived from the statutory authority in chapter 57 of

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title 5 of the United States Code. The limitation imposed by the Federal Travel Regulations has the force and effect of law and agents of the United States Government do not have the authority or discretion to waive any such provisions regardless of extenuating circumstances. Munro v. United States, 303 U.S. 36 (1938); United States v. Garbutt Oil Co., 302 U.S. 528 (1938); Finn v. United States, 123 U.S. 227 (1887); Johnnie M. Black, B-189775, September 22, 1977. Therefore, failure to offer guidance to an employee cannot be considered as a defense because no Government agency or employee has the authority to permit transportation in excess of that authorized. B-174755, January 18, 1972.

This Office has recognized that certain items are of immediate necessity for an employee or his family upon permanent relocation and that an expedited mode such as air freight can be used. Dr. Morton's travel orders authorized surface transportation only and he shipped his personal effects by air from Australia. However, regardless of the mode used, the total amount allowable for shipment of all of his effects may not exceed the cost of their shipment in one-lot. William J. Feaser, B-189968, March 31, 1978; Paul C. Salute, B-187020, January 24, 1977; 29 Comp. Gen. 104 (1949).

Accordingly, Dr. Morton is liable for the excess transportation costs in the amount of \$378.85. There is no authority for waiving a claim of the United States arising out of an erroneous payment of travel or transportation allowances. See 5 U.S.C. § 5584.


For the Comptroller General
of the United States