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DECISION

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

FILE: B-218910 **DATE:** October 23, 1985

MATTER OF: Gene H. Rhodes

DIGEST: Where a transferred employee reported to his new administrative headquarters location for a period of orientation before reporting to the contractor facility that was to be his new duty station, he may be paid per diem rather than temporary quarters subsistence expense for the orientation period even though his permanent-change-of-station travel orders did not provide for a period of orientation away from his new duty station. The headquarters was located 60 to 70 miles from the contractor facility, and he was directed in advance, in writing, to report to that location prior to beginning his assignment at the contractor's facility. Under these circumstances the absence of a properly executed travel order form will not prevent payment of appropriate temporary duty allowances.

This decision considers the question of whether a transferred Defense Logistics Agency employee is entitled to per diem rather than temporary quarters subsistence expenses for a 3-week period of orientation he was directed to perform at his new administrative headquarters location before reporting to his new duty station when his permanent-change-of-station orders did not authorize temporary duty en route.[1/] Since the orientation was performed at the location of his new administrative headquarters as directed in writing by that authority, the employee is entitled to per diem for that period of temporary duty and he may claim temporary quarters subsistence expenses for the period beginning with the termination of that orientation assignment. He is also entitled to temporary storage of his household goods for an additional period as provided for by regulation.

1/ The decision responds to a request for advance decision submitted by John L. Matthews, Chief, Accounting and Finance Division, Office of Comptroller, Headquarters, Defense Personnel Support Center, Defense Logistics Agency, Philadelphia. It was approved by the Department of Defense Per Diem, Travel and Transportation Allowance Committee, and assigned PDTATAC Control No. 85-22.

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Facts

Travel Order TGB#83-P-0745, issued June 6, 1983, by the Defense Contract Administration Services Region, Philadelphia, Pennsylvania, directed Mr. Gene H. Rhodes to make a permanent change of station from Radford Army Ammunition Base, Radford, Virginia, to a Baltimore, Maryland, Defense Contract Administration Services Management Area (DCASMA) facility at Gaithersburg, Maryland. His new duty station was in fact located at the IBM facility in Gaithersburg, Maryland, where he had been selected to be the resident engineer. That facility is under the administrative responsibility of the Baltimore DCASMA, located in Towson, Maryland, 60 to 70 miles from the Gaithersburg facility. Mr. Rhodes' permanent-change-of-station order authorized, among other things, temporary quarters subsistence expenses for 24 days and shipment and temporary storage of household goods. The order did not specify a reporting date and it made no reference to a temporary duty assignment en route at Towson.

By letter from Baltimore DCASMA, dated June 20, 1983, Mr. Rhodes was instructed to report for duty at the headquarters facility at Towson on July 18, 1983. This letter confirmed oral advice he had earlier received from the Chief of the Systems Engineering Support Branch of that facility. When he arrived at Towson he received a memorandum dated July 13 setting forth a 3-week program of orientation to precede his actual entrance on duty at the IBM facility. Two letters, dated August 5 and 9, notified IBM that Mr. Rhodes would be located at its Gaithersburg facility beginning August 8 and his travel voucher indicates that he, in fact, reported to Gaithersburg on that date.

In the settlement of Mr. Rhodes' travel voucher the agency allowed him temporary quarters subsistence expenses for the period from July 17 to August 8, and a household goods storage allowance for 60 days. Receipts show that he occupied commercial accommodations near Towson, Maryland, from July 18 to August 8 and that his household goods were in storage for 83 days until delivery on October 7.

Mr. Rhodes contends that he is entitled to per diem rather than temporary quarters subsistence expenses for the

period from July 17 to August 8, and to a temporary quarters subsistence allowance for 24 days beginning August 8, when he began working in Gaithersburg. He also contends that he is entitled to temporary storage of his household goods for an additional 23 days. As authority for payment of these allowances, he points to Travel Order TGB-83-P1134, dated August 20, 1984, which directs him to proceed on July 17, 1983, from Christianburg, Virginia, to Towson, Maryland, for approximately 20 days of temporary duty for mission orientation prior to reporting to his new permanent duty station at Gaithersburg.

The agency questions whether Travel Order TGB-83-P1134 is valid as a means of amending the original permanent-change-of-station order inasmuch as it was issued by his new rather than his old station more than 1 year after the travel occurred.

Discussion

We do not view the issue in this case as one involving modification of the employee's permanent-change-of-station orders, but rather as one involving a claim which arises out of a separately authorized period of temporary duty.

As a resident engineer, Mr. Rhodes was to be stationed on site at the contractor facility in Gaithersburg while his administrative headquarters was to be DCASMA, Baltimore. He was not able to begin work immediately at the Gaithersburg facility because of certain clearance procedures which had not yet been completed. Further, he had been specifically directed to report to the headquarters in Towson for orientation and training. It is clear from the materials presented that he was not to begin work in Gaithersburg until August 8, 3 weeks after he left his old duty station.

The authority to pay per diem and reimburse travel expenses incurred by an employee while traveling on official business is provided by chapter 57 of title 5, United States Code. The Federal Travel Regulations issued by the General Services Administration pursuant to 5 U.S.C. § 5707 govern the official travel of Federal employees. Paragraph 1-1.4 of the Federal Travel Regulations (FPMR 101-7, May 1973) provides:

> "Authority for travel. Except as otherwise provided by law, all travel shall be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated. Ordinarily, an authorization shall be issued prior to the incurrence of the expenses. * * *"

We have held that written authorization should be issued prior to incurrence of travel expenses, except when prior issuance is impracticable, or when the travel is of such a limited nature that it is unnecessary. Robert W. Cooper, B-192590, December 14, 1978. For civilian employees of the Department of Defense this construction is reflected in paragraph C3050 of Volume 2 of the Joint Travel Regulations (2 JTR). Paragraph C3050 specifically provides that travel orders will be issued "before the performance of travel unless an urgent or unusual situation prevents prior issuance." Paragraph C3051 provides an exception for the issuance of confirmatory travel orders as follows:

> "If official travel begins or is performed before a travel order is issued, such action will be supported by proper oral, letter, or message authority. The issuance of a confirmatory travel order as promptly as possible is necessary in those instances. A confirmatory travel order will include appropriate statements regarding the prior authorization and justification for any unusual delay in issuance. The official who directed the travel is responsible for initiating action for issuance of a confirmatory travel order."

In Mr. Rhodes' case, formal travel orders were not issued in advance of his orientation assignment. Although his travel to Towson was directed both orally and in writing prior to its performance, the form prescribed--Request and Authorization for TDY Travel of DOD Personnel, DD Form 1610--was not issued until more than a year later. We have, however, authorized payment of appropriate allowances even in the absence of formal orders where the failure to

issue such orders was a matter of administrative oversight and where the circumstances make it clear that the agency intended the individual to travel and be reimbursed for his expenses. Robert Gray, B-203820, October 19, 1981, and Dr. Chih-Wu Su, B-217723, August 12, 1985.

There appears to be no dispute that Mr. Rhodes has met the statutory requirements entitling him to payment of travel costs by the Government. That is, he was required by his superior to report to a work assignment on official business away from his designated post of duty. His work assignment was known to his supervisors and the agency's intent to reimburse him for expenses incurred incident to that assignment is established by a travel order executed in belated fashion. While there has not been strict compliance with the Joint Travel Regulation requirements regarding issuance of formal travel orders, the agency did direct performance at the orientation assignment in writing. Under these circumstances its intent is clearly established and the failure to issue a formal travel authorization as provided by agency regulations may not be used as a basis to withhold payment of the allowances prescribed for the performance of temporary duty away from the employee's official duty station.

Of course, Mr. Rhodes may not be paid a temporary quarters subsistence allowance and per diem for the same period of time. See 2 JTR, paragraph C13002. Insofar as applicable to Mr. Rhodes' claim, 2 JTR, paragraph C13005, provides for the period of occupancy of temporary quarters to begin not later than 30 days from the date the employee reports for duty at his new station. His claim for temporary quarters subsistence expenses for the period beginning August 8, 1983, may therefore be allowed.

Mr. Rhodes' contention concerning his entitlement to an additional 23 days of temporary storage for his household goods also has merit. He has been reimbursed temporary storage expenses for 60 days and contends that he was entitled to a maximum of 90 days' storage when he was transferred. Effective October 1, 1982, the basic period for temporary storage of household goods was increased from 60 to 90 days by amendment to the Federal Travel Regulations. GSA Bulletin FPMR A-40, Supplement 4, August 23, 1982. This amendment was incorporated in the Joint Travel

Regulations, Volume 2, by Change 208, February 1, 1983. At the time Mr. Rhodes was transferred the basic period for temporary storage was "not to exceed 90 days." Accordingly, Mr. Rhodes is entitled to temporary storage for the additional 23-day period his household goods were stored since that allowance increases the temporary storage period to 83 days, within the 90-day basic period allowed.

Mr. Rhodes' travel claim should be settled consistent with this decision.

for Milton J. Socolar
Comptroller General
of the United States