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DECISION



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

FILE: B-207094

DATE: February 11, 1983

MATTER OF: Consuelo K. Wassink - Time Limitation
on Return to Place of Residence

DIGEST: In order for employee to be reimbursed expenses incident to return travel to former place of residence, travel must be clearly incidental to separation and should commence within reasonable time thereafter. Employee who resigned position effective October 2, 1981, notified agency on March 2, 1982, of intent to return to former place of residence commencing on September 23, 1983, and who accepted employment at location of resigned position does not meet requirements for reimbursement.

This decision is in response to a letter from counsel for Ms. Consuelo K. Wassink, a former employee of the Bureau of Land Management (BLM), Department of the Interior. Ms. Wassink is appealing a BLM decision disallowing her request for prospective authorization for reimbursement of travel expenses and transportation of household goods for return travel to Boulder, Colorado, commencing September 23, 1983. The BLM denied her request for the reason that her return travel would not be clearly incidental to her separation as required by 28 Comp. Gen. 285 (1948).

For the reasons stated below, the disallowance by BLM is sustained.

Ms. Wassink was given an appointment by BLM effective June 21, 1975, as a Public Information Officer with the Alaska Outer Continental Shelf Office (OCS), Anchorage, Alaska. At the time of her appointment she was a resident of Boulder, Colorado. She was authorized travel and transportation expenses from Boulder, Colorado, with return rights, pursuant to 5 U.S.C. § 5722 (1976), and the implementing regulations currently contained in the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR).

In her appeal, Ms. Wassink states, through counsel, that she believes that her notice of intent to exercise

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relocation rights, which was given on March 2, 1982, exactly five months after her resignation became effective, was both incident to her resignation and in accordance with 28 Comp. Gen. 285 (1948). Ms. Wassink's counsel states that "[b]ased on her understanding of regulations and information provided by Alaska OCS's Management Services Division, Petitioner properly requested a departure date well within the two-year time limit--September 23, 1983." Additionally, counsel points to several circumstances which he asserts prevented Ms. Wassink from disclosing her intention to exercise relocation rights earlier, or in fact to relocate before September 1983. First, he notes that Ms. Wassink was asserting a claim before the State Employment Security Division for unemployment compensation benefits which was not resolved until January 26, 1982. Further, counsel notes that although Ms. Wassink did successfully seek further employment in Alaska after her claim with the State Employment Security Division was resolved, this was done only after being informed by the Chief of Management Services, Alaska OCS, BLM, that interim employment was "'nothing to worry about' and would not affect her return rights." Additionally, counsel points out that Ms. Wassink owns real property in Alaska which she needs time to market before moving, and time to act responsibly toward her lease tenants.

Ms. Wassink's return travel is governed by Chapter 2 of the FTR which states in paragraph 2-1.5a(2), that:

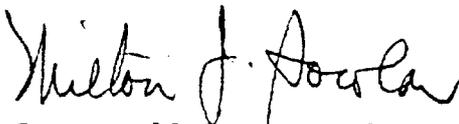
"All travel, including that for the immediate family, and transportation, including that for household goods allowed under these regulations, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment * * *."

With regard to an employee's entitlement to travel and transportation benefits back to the continental United States following separation, this Office has long adhered to the position that the travel of such employee be clearly incidental to the termination of his assignment, and that

the travel should commence within a reasonable time after the assignment has been terminated in order for return expenses to be reimbursable. 52 Comp. Gen. 407 (1973); 28 Comp. Gen. 285 (1948). Therefore, any advice Ms. Wassink may have been given at the time of her separation to the effect that she had an unqualified 2-year period in which to exercise her return rights would not have been in accord with either applicable regulations or decisions of this Office. Further, Ms. Wassink was reemployed in Alaska, and we have held that acceptance of private employment at the termination location generally requires the view that subsequent return travel is not incident to the separation. 37 Comp. Gen. 502 (1958).

On the basis of the information presented, it appears that Ms. Wassink did not intend to return to the continental United States at the time she was separated or at any time prior to September 23, 1983, a date which can not be considered clearly incidental to her termination. Her exact intentions at the time of her resignation are not clear from the record except to the extent that she did not evidence any intent to make use of her return rights to the continental United States until five months after her resignation became effective, and then only to propose a return date of approximately two years after her resignation. We also fail to note the significance of the claim filed by Ms. Wassink with the State Employment Security Division, as referred to by counsel, since its sole purpose was to obtain additional unemployment insurance benefits. Accordingly, in the circumstances her decision to move to the continental United States commencing September 23, 1983, could not revive her rights to reimbursement of the expenses involved.

Ms. Wassink failed to comply with the requirements of law as interpreted in the decisions of this Office for travel to her home in the continental United States at Government expense upon separation. Therefore, we must affirm the decision of the Bureau of Land Management.

for 
Comptroller General
of the United States