



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Bureau of Alcohol, Tobacco and Firearms--
Mileage Allowance--TDY Near Permanent Station

File: B-255767

Date: May 2, 1994

DIGEST

An employee was reassigned to a different duty station near his permanent duty station pending the disposition of an adverse personnel action. He was not issued permanent change-of-station orders, and other indices of the assignment indicated that it was temporary. Thus, it is considered a temporary duty assignment. In these circumstances it is within the agency's discretion to approve a mileage allowance for his commute to the temporary duty assignment and to limit the allowance to the mileage that exceeded his normal commute to his permanent station.

DECISION

The Bureau of Alcohol, Tobacco and Firearms (ATF) requests an advance decision on the claim of a Special Agent for mileage between the Agent's home and his designated duty station incident to a 1-year detail away from his permanent duty station.¹ We conclude that the detail was a temporary assignment and that it is within the agency's discretion to approve a mileage allowance.

BACKGROUND

The claimant was a criminal investigator whose official duty station was Falls Church, Virginia, when, on April 1, 1992, he was assigned to the ATF's National Tracing Center in Landover, Maryland, about 22 miles east of Falls Church. The claimant commuted daily to Landover from his residence in Gainesville, Virginia, which is about 30 miles west of Falls Church. Both Falls Church and Landover are located in the Washington, D.C. metropolitan area.

¹The request for a decision was submitted by ATF's Deputy Chief Financial Officer, Washington, D.C.

According to a statement from the individual who was the Special Agent in Charge (SAC) of the Washington, D.C. Field Division, at the time of the assignment, the purpose of the assignment was to remove the claimant from his duties as a criminal investigator until a proposed adverse personnel action involving the claimant could be resolved. The SAC states that he informed the claimant that the claimant would be responsible for his own transportation to and from the Tracing Center. The SAC also states that he advised the claimant that he did not know how long the assignment would last.

The agency did not issue the claimant any written orders to document this assignment at the time it began, nor did it issue any authorization for travel or transportation expense reimbursement. However, on March 18, 1993, the agency issued three Standard Form 52s (Request for Personnel Action) describing the assignment as a series of three consecutive 120-day details. In addition, on April 1, 1993, the agency issued another SF 52 showing an additional 5-day detail.² These SF 52s thus covered the 1-year period from April 1, 1992-April 1, 1993. The SF 52s listed the position title as "unclassified duties". A final SF 52 was also issued April 1, 1993, terminating the detail, and the agency returned the claimant to his duties as a criminal investigator at Falls Church.

The claimant submitted a travel voucher claiming round-trip mileage for his daily commuting between his residence and Landover on the basis that his assignment was temporary and he is entitled to reimbursement for travel commuting to a temporary duty station. The agency travel office opined that the claim could not be paid because Landover became the employee's permanent duty station and a mileage allowance would be precluded by the well-established rule that an employee may not be paid mileage to commute to his permanent duty station.

In the request for a decision, the agency asks that we determine the status of the claimant's duty station in Landover and indicates that the issuance of the SF 52s documenting details at fixed intervals, alludes to the assignment being temporary in nature. The agency also asks, if we conclude it was a temporary assignment and mileage is payable, whether the claimant's mileage should be computed

²Apparently, the SF 52s were issued for 120-day periods in accordance with 5 U.S.C. § 3341 which authorizes agencies to detail employees and to renew such details for periods of not more than 120 days. See also Federal Personnel Manual, ch. 300, § 8-5 (Inst. 369, May 15, 1990).

from the claimant's residence or from his duty station at Falls Church.

OPINION

Whether an assignment to 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, its duration and the nature of the duty. Edward W. DePiazza, 68 Comp. Gen. 465 (1989). While generally a temporary assignment should be brief, we have not established any hard and fast rules in that regard, and we have recognized temporary duty assignments for periods of a year or more. See e.g. Edward W. DePiazza, *supra*; and Peter F. Dessaurer and Richard E. Wells, 68 Comp. Gen. 454 (1989) See also, Bertram C. Drowin, 64 Comp. Gen. 205, 208-210 (1985).

In this case, we believe the claimant's assignment to duty at Landover meets the test for temporary duty. No orders were issued effecting a transfer, and from the outset of the assignment, the agency and the claimant understood that the assignment was for a limited period. That is, the assignment was to last only until the proposed adverse action was resolved, a fact supported by the claimant's eventual return to his original duty station. Also, the SF 52s issued at the end of the assignment, describe the claimant's duties as "unclassified," which is more consistent with a temporary assignment than a permanent one, as does the SF 52s characterization of the assignment as a series of details of fixed duration. Therefore, the understanding of the agency and the employee, the nature of the duties and the duration of the assignment all suggest this assignment was temporary.

Regarding the employee's claim for mileage, we note first that whether to authorize a mileage allowance for travel to a temporary duty location near an employee's permanent duty station is not required, but is a matter within agency discretion, considering the interests of the employee and the government. See Kenneth L. Peck and Mark N. Snow, B-198887, Sept. 21, 1988; and Howard M. Feuer, 59 Comp. Gen. 605 (1980), and decisions cited therein. Furthermore, agencies may impose limitations on the reimbursement available to employees to ensure that the employee is reimbursed only for the increased costs of commuting to a temporary duty site.³ Brian E. Charnick, B-184175, June 8, 1979. Accordingly, the agency may exercise its discretion to

³While this discretion may be exercised through issuance of an agency regulation prescribing the method of reimbursement (see e.g. 65 Comp. Gen. 127 (1985)), we understand that the agency in this case has not done so.

approve a mileage allowance in this case if it deems it appropriate. In doing so, as the agency suggests, it may limit the allowance to the additional mileage between Falls Church and Landover rather than the full mileage the employee claims between his residence in Gainesville and Landover.

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