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**DECISION**



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

**FILE:** B-216016

**DATE:** January 22, 1985

**MATTER OF:** Bertram C. Drouin - Temporary Duty vs.  
Permanent Change of Station, Relocation  
Expenses, and Reimbursement for Automobile  
**DIGEST:** Rental Charges

1. An employee received travel and subsistence allowances during an alleged 6-month detail in Washington, D.C., and then was permanently assigned to Washington. Whether a particular location should be considered a temporary or permanent duty station is a question of fact to be determined from the orders directing the assignment, the duration of the assignment, and the nature of the duties to be performed. Under the facts and circumstances of this case, we conclude that the employee's 6-month detail in Washington constituted a legitimate temporary duty assignment. Therefore, he was entitled to temporary duty allowances in Washington until the day he received definite notice of his transfer there.
2. An employee was transferred from Chicago, Illinois, to Washington, D.C., following a 6-month temporary duty assignment in Washington. The employee's claim for moving expenses may be allowed if otherwise proper, since the change of an employee's official station to the location of his temporary duty assignment will not defeat his entitlement to the relocation expenses authorized by 5 U.S.C. §§ 5724 and 5724a.
3. An employee was reimbursed for the costs of renting an automobile to transport his personal effects from his permanent duty station to his temporary duty site, and for local

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transportation at his temporary duty station. The employee may not retain full reimbursement for the automobile rental charges since the rental was not approved based on a determination of advantage to the Government, and there is no authority to reimburse rental costs for periods in which no official business is performed. However, the employee may retain reimbursement attributable to his use of the rental car for official travel, limited to the constructive cost of transportation by a more advantageous mode.

The Commissioner of Customs has requested our decision concerning Mr. Bertram C. Drouin, a former employee of the United States Customs Service stationed in Chicago, Illinois, who was allegedly detailed to Washington, D.C., for 6 months prior to a permanent reassignment there. The Commissioner frames the issues for our determination as follows: (1) whether Mr. Drouin's 6-month detail in Washington should be regarded as temporary duty or as a permanent change of station; (2) whether Mr. Drouin must repay any portion of the temporary duty allowances he received during the 6-month detail; (3) whether Mr. Drouin may be allowed reimbursement for relocation expenses associated with his transfer from Chicago to Washington; and (4) whether Mr. Drouin may retain reimbursement for the costs of renting and storing an automobile during the period of his detail in Washington.

For the reasons discussed below, we hold that Mr. Drouin's 6-month detail constituted a legitimate temporary duty assignment, and, therefore, that he may retain the travel and subsistence expenses he received in Washington. However, if Customs determines that Mr. Drouin received definite notice of his transfer to Washington prior to the end of his detail, he may not retain the temporary duty allowances he received after the date of that notice. Further, we hold that Mr. Drouin may be paid relocation expenses associated with his transfer from Chicago to Washington, even though the transfer followed an extended period of temporary duty. Finally, we hold that Mr. Drouin

may not retain full reimbursement for the automobile rental and storage charges in question, since the rental was not authorized as advantageous to the Government, and the automobile was used primarily for personal travel. However, Mr. Drouin may be allowed rental charges attributable to his use of the automobile for official travel, limited to the constructive cost of transportation by a mode which is more advantageous to the Government.

#### TEMPORARY DUTY ALLOWANCES

##### Facts

In 1982, Customs abolished its Office of Special Enforcement in Washington, D.C., leaving the agency without an office to handle international enforcement. At the request of the Deputy Director, Office of Investigations, Mr. Drouin was detailed from his position as Regional Director (Investigations), Chicago, Illinois, to Washington, D.C., and assigned responsibility for establishing and organizing a new office for the supervision of international enforcement. The Deputy Director, who supervised Mr. Drouin during the detail, states that he selected Mr. Drouin for the assignment because he had previously managed international enforcement, and because local personnel lacked the necessary experience.

On August 9, 1982, Mr. Drouin reported for duty in Washington under orders authorizing travel for the period August 9 to September 7, 1982, and describing the purpose of the travel as a "detail to headquarters." He was not assigned to any established position during the detail, but served under a series of different job titles until February 19, 1983. On that date, Mr. Drouin was permanently transferred to Washington and assigned to the newly-created position of Director, Office of International Enforcement Staff. Between August 9, 1982, and February 19, 1983, Mr. Drouin received \$8,959.56 in temporary duty allowances.

Following an audit of various travel and relocation claims filed by Mr. Drouin, Customs' Office of Internal Affairs decided that Mr. Drouin's 6-month detail represented a permanent change of station rather than a temporary duty assignment, and, therefore, that he should repay the temporary duty allowances he had received. As support for this

conclusion, Internal Affairs cited our decisions holding that an employee who is notified of a permanent change of station before reporting for temporary duty at the new station may not be paid per diem after he arrives there. For reasons which are discussed below, Internal Affairs found that Mr. Drouin knew he would be transferred to Washington before he reported for temporary duty there on August 9, 1982.

The Office of Internal Affairs also found it significant that, shortly after Mr. Drouin began his detail in Washington, the Regional Commissioner (Enforcement), North Central Region, requested that the region be reimbursed for his per diem and salary expenses. Further, the Office of Internal Affairs noted that Mr. Drouin relinquished his apartment in Chicago after beginning his detail in Washington, and that his family maintained a separate residence in the Washington area.

The Deputy Assistant Commissioner, Office of Enforcement, disagreed with Internal Affairs' conclusion that Mr. Drouin knew he would be transferred to Washington before he reported for temporary duty there. In view of this disagreement, the Commissioner of Customs asked us to determine whether Mr. Drouin's detail during the period August 9, 1982, to February 19, 1983, should be regarded as temporary duty or as a permanent change of station, and whether he must repay any portion of the temporary duty allowances he received during that period.

## Discussion

### Nature of the Assignment

The Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), do not contain a formal definition of a "temporary duty assignment." However, under the provisions of FTR para. 1-7.6a, an employee may not be paid per diem or actual subsistence expenses at his permanent duty station or at the place of abode from which he commutes daily to his official station.

The agency's designation of an employee's permanent duty station is not determinative. Frederick C. Welch, 62 Comp. Gen. 80 (1982). In 31 Comp. Gen. 289, 291 (1952), we stated that:

"\* \* \*the authority to determine and designate the post of duty of an officer or employee of the Government includes only the authority to fix the place at which the employee should actually establish official headquarters, and from which he should in fact operate, which, ordinarily is the place where the employee would be required to spend most of his time. The designation of any other place, for the purpose of giving the employee a subsistence allowance for the greater portion, or all, of his time, is not within the authority vested in the head of a department or other administrative official charged with the duty of designating posts of duty of Government employees, and does not entitle an employee to per diem when absent therefrom and performing duty at another place, which latter place is in fact his post of duty." (Citations omitted.)

We have held that the question whether an assignment to a particular location should be considered a temporary duty assignment or a permanent change of station is a question of fact to be determined from the orders directing the assignment, and from the nature and duration of the assignment. J. Michael Tabor, B-211626, July 19, 1983; and Don L. Hawkins, B-210121, July 6, 1983. The duration and nature of the duties assigned are of particular importance in making the determination as to whether an assignment to a particular location is a permanent change of station. Peter J. Dispenzirie, 62 Comp. Gen. 560 (1983); and Don L. Hawkins, supra, at 4.

1. The duration of the assignment.

Although there is no hard and fast rule as to the permissible duration of a temporary duty assignment, we have generally stated that such assignments are of brief duration. See J. Michael Tabor, B-211626, supra, at 5; and 36 Comp. Gen. 757, 758 (1957). Thus, in Peck and Snow, B-198887, September 21, 1981, we determined that an assignment of 2 years and 9 months was, in fact, a permanent change of station rather than a temporary duty assignment. Similarly, in Peter J. Dispenzirie, 62 Comp. Gen. 560, above, we held that a 2-year assignment could not be

regarded as temporary duty. Further, in J. Michael Tabor, B-211626, cited previously, we determined that an assignment of 18 months was far in excess of the reasonable duration of a temporary duty assignment. See also 36 Comp. Gen. 757.

On the other hand, we have held that assignments lasting for 2 to 4 months generally should be regarded as temporary duty assignments. Nelson J. Krohn, B-200745, September 1, 1981; and Peck and Snow, B-198887, supra, at 5. In Frederick C. Welch, 62 Comp. Gen. 80, above, we held that the assignment of an employee to a seasonal worksite for 6 months every year constituted a "long term" temporary duty assignment, rather than a permanent change of station. Also, in Robert E. Larrabee, 57 Comp. Gen. 147 (1977), we approved an agency's designation of a 17-month assignment as temporary since the assignment was initially intended to cover only a 5-month period, and was twice extended for no more than 6 months at a time.

Mr. Drouin reported for duty in Washington on August 9, 1982, under orders authorizing temporary duty travel for a 1-month period ending September 7, 1982. His detail was extended to February 19, 1983, for a total duration of 6 months. Under these circumstances, and in line with the above-cited decisions, we hold that Mr. Drouin's detail was of sufficiently short duration to constitute a legitimate temporary duty assignment.

2. The nature of the duties performed.

As we discussed previously, the character of an assignment must be determined not only from its duration, but also from the nature of the duties assigned. Examples of duties normally associated with a temporary duty assignment include: an assignment to a replacement pool for further assignment; an assignment to a school as a student for the purpose of pursuing a course of instruction of definite duration; or an assignment to a particular station under conditions contemplating a further assignment to a new duty station or a return to the old duty station. 24 Comp. Gen. 667, 670 (1945). In contrast, we held in Peter J. Dispenzerie, 62 Comp. Gen. 560, cited previously, that the assignment of an employee to act as the head of a regional office for 2 years is not the type of assignment which is normally made on a temporary basis. In J. Michael Tabor, B-211626, above, we held that an employee serving as an

administrative assistant for 17 months could not be considered to be on temporary duty, since the record did not show that he had special skills needed to perform the assignment, or that local personnel could not have been assigned to the duties.

In this case, Mr. Drouin was detailed to Washington for the purpose of establishing and organizing a new office of international enforcement. The Deputy Director, Office of Investigations, states that he requested the temporary assignment because Mr. Drouin had previously managed international enforcement, his assistance was "critically needed due to a headquarters reorganization," and "no one in headquarters could manage the [new] division because of the lack of experience." During the period of the detail, Mr. Drouin was not assigned to an established position but served under a series of different job titles.

Considering the transitory nature of the project to which Mr. Drouin was assigned, and the agency's need for his special skills and experience, we conclude that Mr. Drouin's assignment in Washington fulfilled a legitimate objective of temporary duty. Compare J. Michael Tabor, B-211626, above. Accordingly, for the reasons stated above, we hold that Mr. Drouin was properly assigned to a temporary duty status for the period beginning August 9, 1982.

#### Notice of Transfer

As indicated previously, the Office of Internal Affairs determined that Mr. Drouin was not entitled to temporary duty allowances in Washington because he knew he would be transferred there before beginning his detail on August 9, 1982. Apparently, this finding was based on an interview conducted with Mr. Drouin on January 31, 1983, in which he stated that the Commissioner of Customs had decided "more than 6 months ago" to permanently reassign him to Washington. Internal Affairs also relied on an interview with the Assistant Regional Commissioner (Enforcement) in Chicago, who said that Mr. Drouin had informed him of the transfer "sometime prior to October 1, 1982."

The Deputy Assistant Commissioner, Office of Enforcement, disagreed with the conclusion reached by Internal Affairs, explaining the relevant facts as follows. In the latter part of 1981, the Commissioner of Customs

tentatively offered Mr. Drouin a permanent reassignment to Washington, and Mr. Drouin rejected this offer. Sometime prior to August 1982, Customs officials generally discussed the staffing of management positions in the new office of international enforcement and identified Mr. Drouin as a candidate for reassignment, but deferred the selection of personnel pending the creation of the new office. At the time Mr. Drouin reported for temporary duty in Washington, he was an applicant for positions in several of Customs' regional offices. It was not until after Mr. Drouin reported for temporary duty in Washington that he applied for a permanent position there. The Commissioner of Customs selected Mr. Drouin for reassignment to Washington in January 1983, and his permanent position there was established on February 17, 1983.

As pointed out by Internal Affairs, we have held that a transfer is effective on the date an employee arrives at his new duty station. Thomas S. Roseburg, B-188093, October 18, 1977. On this basis, we have held that an employee who receives definite notice of a permanent change of station prior to reporting for temporary duty at the new station is not entitled to be paid per diem or actual subsistence expenses after he arrives there. See John W. Corwine, B-203492, December 7, 1982.

The record before us does not support a determination that Mr. Drouin received definite notice that he would be transferred to Washington before he reported for temporary duty there in August 1982. While Mr. Drouin may have been aware prior to August 1982, that he was being considered for a permanent reassignment to Washington, the Commissioner of Customs did not select him for the reassignment until January 1983. Under these circumstances, we conclude that Mr. Drouin could not have received definite notice of his appointment to a permanent position in Washington before January 1983. See generally Modesto Canales, B-186595, July 7, 1977, and April 10, 1978.

We note, however, that per diem may not be allowed at a place where an employee is on temporary duty after he receives notice that such place is to become his permanent duty station, even though there may be an administrative delay in the processing and issuance of a formal transfer order. See Modesto Canales, B-186595, cited above. Although the record indicates that the Commissioner of



Customs decided to permanently reassign Mr. Drouin to Washington in January 1983, there is no documentation concerning the date upon which this decision was communicated to Mr. Drouin. Accordingly, Customs should ascertain whether Mr. Drouin received notice of the transfer before the end of his detail on February 19, 1983, and, if necessary, redetermine his entitlement to temporary duty allowances.

#### Ancillary Issues

As further support for its determination that Mr. Drouin's assignment to Washington represented a permanent change of station, the Office of Internal Affairs points out that the Regional Commissioner (Enforcement), North Central Region, requested and received reimbursement for Mr. Drouin's salary and temporary duty expenses beginning October 1, 1982. However, the Assistant Regional Commissioner (Enforcement) of the North Central Region, who initiated the request for reimbursement, explains that, "[a]lmost without question, when someone requests an employee who I have control over for a TDY [temporary duty] assignment, I want to know who is going to pay the expenses. That's a routine with me and I did it in the case of Mr. Drouin." Since it appears that the North Central Region routinely requests reimbursement for salary and subsistence expenses associated with the temporary duty travel of its employees, we do not believe that its request for reimbursement of Mr. Drouin's temporary duty expenses has any bearing on the character of his assignment in Washington.

The Office of Internal Affairs also considers it significant that Mr. Drouin gave up his apartment in Chicago after beginning his detail in Washington, D.C., and that his family maintained a separate residence in the Washington area. However, there is no requirement that an employee maintain a residence at his permanent duty station in order to qualify for per diem or actual subsistence expenses while on temporary duty away from that station. See Robert E. Larrabee, 57 Comp. Gen. 147 (1977), at 150, 151; and Nicholas G. Economy, B-188515, August 18, 1977. Furthermore, since it appears that Mr. Drouin did not reside with his family during the period of his temporary duty assignment in Washington, there is no basis for reducing his lodging expenses during that period. Compare Sanford O. Silver, B-187129, January 4, 1977.

RELOCATION EXPENSES

Mr. Drouin incurred \$837.71 in relocation expenses during the period March 6 to April 8, 1983. While the record does not contain a description of the claimed expenses, Customs poses a general question as to whether relocation expenses are allowable where an employee is transferred to the location at which he has been performing extended temporary duty.

As noted previously, an employee who is transferred to the location at which he is performing temporary duty may not be paid per diem after he receives definite notice of the transfer. However, the fact that an employee is transferred to his temporary duty site does not defeat his entitlement to the relocation expenses authorized by 5 U.S.C. §§ 5724 and 5724a (1982). See Steven F. Kinsler, B-169392, October 28, 1976; and NOAA Ship DISCOVERER, B-167022, July 12, 1976. Under sections 5724 and 5724a, a transferred employee may be reimbursed for various moving expenses including the costs of transporting his family and household effects to the new duty station, residence sale and purchase expenses, and miscellaneous expenses. Accordingly, Mr. Drouin may be reimbursed for relocation expenses in the amount of \$837.71, if payment for the claimed items is otherwise allowable under 5 U.S.C. §§ 5724 and 5724a.

AUTOMOBILE RENTAL CHARGES

Facts

Mr. Drouin periodically rented an automobile while he was temporarily stationed in Washington, D.C. After he was reimbursed for rental and storage charges totaling \$1,877.42, Customs' Office of Internal Affairs questioned his entitlement to be reimbursed for those expenses.

The audit report prepared by Internal Affairs shows that, shortly after Mr. Drouin reported for temporary duty in Washington, his supervisor verbally authorized him to use a rental car to return to Chicago for the purpose of picking up his personal effects. Mr. Drouin traveled to Chicago by a mode of transportation not described in the record, and, on October 26, 1982, he rented a car there. On October 29,

1982, Mr. Drouin used the rental car to travel from Chicago to Cincinnati, Ohio, where he apparently performed temporary duty for 2 days. He left Cincinnati on November 1, arrived in Washington on November 2, and returned the car to the rental company on November 7, 1982. During the period October 26 to November 7, 1982, Mr. Drouin incurred automobile rental charges totaling \$872.03.

The remaining rental and storage charges are attributable to Mr. Drouin's use of a rental car for local transportation in Washington during the period August 9 to November 14, 1982. Mr. Drouin rented a car locally on 5 different occasions, retaining the car for periods of 2 days to 3 weeks without the knowledge or approval of his supervisor. Mr. Drouin states that he rented the car for official purposes, explaining that he and other Customs employees temporarily stationed in Washington used a rental car to commute between their lodgings and the temporary worksite.

The Office of Internal Affairs concluded that Mr. Drouin was indebted for the cost of renting and storing an automobile in Washington, since he could have used a less expensive mode of local transportation. However, Internal Affairs found that Mr. Drouin could be reimbursed for the automobile rental charges he incurred in moving his personal effects from Chicago to Washington, not to exceed the cost of common carrier transportation between those two points.

#### Discussion

Under FTR para. 1-3.2, an employee may use a rental car only if an appropriate official has determined that the use of a common carrier or other method of transportation would not be more advantageous to the Government. See Robert P. Trent, B-211688, October 13, 1983. Even if competent authority determines that a rental car is more advantageous to the Government, an employee may not be reimbursed for the cost of the rental unless he uses the automobile for official purposes. FTR para. 1-1.3b. See also Raymond E. Vener, B-199122, February 18, 1981. Accordingly, we must determine whether Mr. Drouin received proper authorization for the rental of an automobile, and used the automobile for official purposes, (1) for his travel from Chicago to Washington, during the period October 26 to November 7, 1982; and (2) for local transportation in Washington, between August 9 and November 14, 1982.

1. Travel from Chicago to Washington.

As indicated above, the record indicates that Mr. Drouin's supervisor verbally authorized him to rent an automobile to transport his personal effects from Chicago to Washington. However, there is no evidence that this official determined that Mr. Drouin's rental of an automobile would be more advantageous to the Government than his use of a common carrier or other method of transportation, as is required by FTR para. 1-3.2.

Furthermore, we note that Mr. Drouin rented the car in Chicago on October 26, used it for travel between October 29 and November 2, and did not return it to the rental agency until November 7, 1982. Thus, the rental car either sat idle or was retained for Mr. Drouin's personal convenience on 8 days during the 12-day rental period. Also, Mr. Drouin's use of the rental car to transport his belongings from Chicago to Washington must be regarded as personal, since, at the time, he was only temporarily assigned to Washington and had not been permanently transferred there. See generally Laddie V. Birge, Jr., B-190525, April 7, 1978. As we indicated previously, there is no authority to reimburse the cost of car rental for a period in which no official business is performed. See Lawrence B. Perkins, B-192364, February 15, 1979.

We note, however, that Mr. Drouin traveled from Chicago to Washington via Cincinnati, Ohio, where he apparently performed temporary duty for 2 days. Where an employee performs official travel by a mode of transportation not authorized as advantageous to the Government, we have allowed reimbursement limited to the constructive cost of transportation by a more advantageous mode. See Robert P. Trent, B-211688, *supra*, at 10, 11; and Sandra Massetto, B-206472, August 30, 1982. Therefore, if Customs determines that Mr. Drouin actually performed temporary duty in Cincinnati, he may be reimbursed for his return travel to Washington, not to exceed the constructive cost of travel by common carrier or another permissible mode of transportation.

2. Local travel in Washington, D.C.

As indicated above, Mr. Drouin periodically rented an automobile in Washington so that he and other Customs employees could commute between their lodgings and the temporary duty site. However, this rental was not approved based on a determination of advantage to the Government, as is required by FTR para. 1-3.2. Furthermore, we note that FTR para. 1-2.3, pertaining to local transportation, contemplates that an employee on temporary duty will ordinarily lodge in close proximity to the temporary duty site. Thus, we have disallowed local travel expenses occasioned by an employee's remote lodging, unless the employee demonstrates that adequate lodging in the immediate vicinity was unavailable or that he achieved an overall cost savings in travel expenses. Seymour A. Kleiman, B-211287, July 12, 1983; and James Wasserman, B-192112, October 11, 1978.

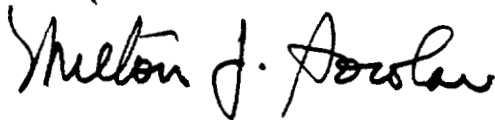
There is nothing in the record to show that Mr. Drouin was unable to obtain lodging in an area serviced by public transportation, or that he secured lodgings in a remote area in order to achieve an overall cost savings. Absent such evidence, Mr. Drouin may not retain reimbursement for those rental charges which exceed the cost of allowable local transportation by a mode which is determined to be advantageous to the Government. See Robert P. Trent, B-211688, supra, at 10, 11.

CONCLUSION

For the reasons stated above, the Commissioner's four questions are answered as follows: (1) Mr. Drouin's 6-month detail in Washington was in fact a temporary duty assignment; (2) he may, therefore, retain all temporary duty allowances he received during the detail, unless Customs determines that he received definite notice of his transfer prior to the end of the detail; (3) Mr. Drouin may be paid relocation allowances associated with his transfer from Chicago to Washington; and (4) Mr. Drouin may retain reimbursement for automobile rental and storage charges only to the extent that he used the automobile for official

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purposes, and then limited to the constructive cost of travel by a more advantageous mode of transportation. In collecting amounts owed by Mr. Drouin, Customs should comply with the procedures set forth in 5 U.S.C. § 5514, as amended by the Debt Collection Act of 1982, Public Law 97-365, § 5, 96 Stat. 1751.

*for*   
Comptroller General  
of the United States