

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548***Meter 24704*

FILE: B-207665

DATE: April 1, 1983

MATTER OF: Adam W. Mink

- DIGEST: 1. Although it is held that a boat may qualify as a mobile dwelling under 5 U.S.C. § 5724(b), an employee who purchased a sailboat to be occupied as his residence incident to permanent change of station is not entitled to freight charges in transporting the boat from the place of construction to the delivery site where it was launched since the employee was not the owner of the boat at the time it was transported.
2. Employee may be reimbursed in connection with the purchase of a sailboat to be occupied as a residence upon transfer of station those expenses which would be reimbursed in connection with the purchase of a residence on land. Expenses necessary for the operation of utilities and of launching the boat may be reimbursed as miscellaneous expenses under FTR para. 2-3.1b.

The Accounting and Finance Officer, Defense Mapping Agency, requests our decision on whether a transferred employee may be reimbursed for freight and commissioning expenses incurred in the purchase of a boat used as his residence at his new duty station. Payment of freight from place of construction to delivery location is not authorized since the boat was not owned by the employee at the time it was transported, but expenses incident to the launching of the boat and for adjustments necessary in the boat's electrical system may be reimbursed as part of the miscellaneous expenses allowance.

Mr. Adam W. Mink, an employee of the Defense Mapping Agency, was transferred from St. Louis, Missouri, to Washington, D.C. In connection with his permanent change-of-station move, he purchased a sailboat to be used as his residence at his new duty station. His claim for reimbursement of expenses incurred incident to purchase of that residence includes

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a \$4,500 freight charge for transportation from California, the place of construction, to the delivery site in Annapolis, Maryland, and \$1,050 in commissioning expenses. A contract for purchase of the boat was entered into in April 1981. This contract provided that the settlement date would be on or before the date the boat arrived in Annapolis and that full payment was due at that time. The contract also provided that title would pass upon receipt by the seller of all payments due. This occurred on July 15, 1981, and from the facts given we must assume that transportation of the boat had been completed or virtually completed at that time. The commissioning expenses charged by the seller of the boat include the following:

(1) Rigging (lift mast and set-labor plus charges)	\$ 100.00
(2) Labor on engine	130.00
(3) Labor on electrical system	160.00
(4) Shaft alignment and propeller	80.00
(5) Parts for engine	120.00
(6) Blocking fee (jack stands support to work on boat)	150.00
(7) Crane charges--\$80 hr. (stepping mast)	160.00
(8) Travel lift fee (pick up boat and put in water)	150.00
	<u>\$1,050.00</u>

The certifying officer asks whether the freight and commissioning charges may be reimbursed as real estate or miscellaneous expenses.

Under 5 U.S.C. 5724a(a)(4) a transferred employee may be reimbursed customary and reasonable expenses required to be paid by him in connection with the purchase of a residence at his new duty station. Because

neither the statute nor regulation limits the qualifying residence to a dwelling on land, we have recognized that expenses which would be reimbursed in connection with the purchase of a residence on land may be reimbursed in connection with the purchase of a houseboat which is occupied as a residence upon transfer of station. Thus, in 53 Comp. Gen. 626 (1974) we authorized reimbursement for the cost of a marine survey incurred in connection with the purchase of a houseboat. Like certain inspection costs that may be reimbursed incident to the purchase of a dwelling on land, the marine survey fee was incurred as a necessary condition to financing the purchase of the residence. See, e.g., B-194887, August 17, 1979. However, neither the transportation charges nor the commissioning expenses claimed by Mr. Mink are analogous to charges incurred incident to the purchase of a dwelling on land. Accordingly they may not be reimbursed as real estate transaction expenses under subsection 5724a(a)(4).

We recognize that similar transportation charges are incurred in transporting a mobile home to a transferred employee's new duty station. In the case of a mobile home used as a residence, an employee may be entitled to reimbursement for such transportation charges under 5 U.S.C. 5724(b). That section provides that in lieu of and limited to the amount otherwise reimbursable for transportation of household goods, an employee who transports a house-trailer or mobile home for use as a residence may be reimbursed commercial transportation charges or a mileage allowance. For the purpose of that statute, a mobile home is defined as "all types of house trailers or mobile dwellings constructed for use as residences and designed to be moved overland, either being self propelled or towed." Paragraph 2-1.4g of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973 as amended). Based on a review of the applicable statutes, we held in 48 Comp. Gen. 147 (1968) that the Department of Defense regulations governing payment of a trailer allowance for military personnel could not be amended to authorize movement of a boat incident to a permanent change of station, even though the boat is actually used as a residence. Although addressed specifically to the

transfer entitlements of military personnel, that decision points out that 5 U.S.C. 5724(b) applicable to civilian employees is patterned after and subject to the same construction as the trailer allowance provisions of title 37 of the United States Code. Under that rule payment of the transportation expenses involved could not be allowed.

In decision B-209591, dated today, however, we have determined that the cost of moving a boat for use as an employee's or service member's dwelling at his new duty station may be authorized under the controlling provisions of statute. Accordingly, we have authorized the Department of Defense and the General Services Administration (because of the similarity of 5 U.S.C. 5724(b) relating to civilian employees) to clarify the Joint Travel Regulations and the Federal Travel Regulations, respectively, to provide specifically for paying appropriate costs connected with the transportation of a boat when it will be used as a residence at the employee's or service member's new duty station.

This decision represents a substantial departure from our previous interpretation of the Federal Travel Regulations. Given the reliance placed upon our prior interpretation and the extent to which retrospectivity would be disruptive of settled claims, the rule set forth above will be prospective only. Claims settled prior to the date of this decision should not be reopened.

In the instant case, however, we are unable to authorize payment based on the new rule because it appears from the facts given that the boat was not the property of the employee at the time it was shipped. See paragraphs C8002-1a and C10002-5a, Volume 2, Joint Travel Regulations. B-146033, June 22, 1961. It is also noted that the file does not show that Mr. Mink did not ship household goods at Government expense, a condition precedent to payment for mobile home transportation. 5 U.S.C. 5724(b).

An employee transferred in the interest of the Government is entitled to a miscellaneous expenses allowance under 5 U.S.C. 5724a(b). For an employee

with immediate family, the implementing Federal Travel Regulations (FPMR 101-7) (May 1973) at chapter 2, Part 3, provide for the reimbursement of such expenses in an amount up to 2 weeks' basic pay upon evidence that he incurred costs covered by the miscellaneous expenses allowance. Paragraph 2-3.1b lists the types of costs covered and provides in pertinent part as follows:

"b. Types of costs covered. The allowance is related to expenses that are common to living quarters, furnishings, household appliances, and to other general types of costs inherent in relocation of a place of residence. The types of costs intended to be reimbursed under the allowance include but are not limited to the following:

"(1) Fees for disconnecting and connecting appliances, equipment, and utilities involved in relocation and costs of converting appliances for operation on available utilities;

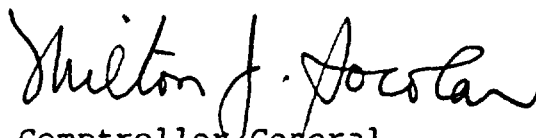
"(2) Fees for unblocking and blocking and related expenses in connection with relocating a mobile home * * *."

Like real estate expenses the miscellaneous expenses incurred by Mr. Mink in relocating his boat may be reimbursed to the extent they are analogous to costs that would be reimbursed as miscellaneous expenses incident to the relocation of a mobile home or other residence. See 53 Comp. Gen. 626, supra.

Commissioning expense items 1, 4 and 7 are costs incurred primarily to make the boat operable as a sailing vessel. They are not in the nature of those costs that are inherent in the relocation of a residence and, accordingly may not be reimbursed as miscellaneous expenses. Although items 2, 3 and 6 are expenditures similarly related to the boat's use as a vessel, they are costs necessary to the functioning of the electrical

system and to the operation of appliances while the boat is docked for use as a residence. Though peculiar to the type of residence here involved, these expenses may be reimbursed as analogous to the cost of connecting appliances and utilities involved in the relocation. Since the cost of replacement or new parts necessary to normal operation and maintenance may not be reimbursed as an item of miscellaneous expenses, the cost of engine parts, item number 5, is disallowed. See, e.g., B-163107, May 18, 1973. Item 8 in the amount of \$150 is an expenditure necessary in launching the boat. It is similar in purpose to the type of cost involved in setting up a mobile home at a new location and may be reimbursed. Matter of Larsen, B-186711, January 31, 1978.

Payment may be made in accordance with this decision.



Acting Comptroller General
of the United States