Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: John W. Chambers

File: B-260456

Date: June 4, 1996

DIGEST

1. After being advised by agency officials that he would be transferred contingent upon approval of an exception to a freeze on transfers, employee sold his residence, purchased a new residence, and incurred other expenses prior to issuance of written travel orders. Employee's expenses may be reimbursed since the subsequently issued travel orders authorized residence transaction expenses and other relocation expenses and preexisting administrative intent to transfer the employee was clearly evident at the time the expenses were incurred.

2. Employee may be reimbursed for temporary duty travel expenses since travel orders were issued retroactively to carry out the agency's original intent to assign him to that travel. Employee may also be reimbursed for the expenses of travel to his new duty station, temporary quarters occupancy, and shipment of household goods where written orders for the transfer were subsequently issued authorizing those expense items.

DECISION

This decision is in response to a request submitted by Ms. Jeanne DiGange, authorized certifying officer, Office of Finance and Management, National Finance Center, Department of Agriculture (USDA), concerning the authority to reimburse an employee for expenses incurred incident to a permanent change of duty station and expenses of a temporary duty detail.

BACKGROUND

Mr. John W. Chambers, an employee of the Forest Service, was stationed at Ogden, Utah, from February 1991 through September 1993. In January 1993, Forest Service officials verbally offered Mr. Chambers a reassignment to Washington, DC, in April/May 1993. On January 22, 1993, however, USDA placed a department-wide freeze on transfers until further notice. On April 19, 1993, the Deputy Chief for Administration, Forest Service, sent a request to the Director of Personnel, USDA,

for an exception to the freeze to allow several positions in the Forest Service, including that of Mr. Chambers, to meet urgent needs.

On July 9, 1993, the Chief of the Forest Service formally requested an exception to the freeze for Mr. Chambers in a decision memorandum for the Secretary of Agriculture. The justification was that Mr. Chambers had been selected to fill a vacancy as Assistant Director, Fire and Aviation Management, and that it was critical to fill the vacancy immediately. A second decision memorandum was submitted on November 19, 1993, requesting the transfer of Mr. Chambers. Thus, the record shows that from April 1993 to December 1993, the Forest Service pursued its request for an exception to allow Mr. Chambers to change duty stations.

On December 5, 1993, USDA granted final approval for Mr. Chambers to transfer and a Travel Authorization for that purpose was issued on December 22, 1993. The estimated dates of travel were shown to be September 21-28, 1993.

While Mr. Chambers was awaiting written orders, the record shows that he relied on the stated intention of the Forest Service to transfer him. On June 11, 1993, Mr. Chambers put his home in Utah on the real estate market, and he entered into a sales agreement on June 17, 1993, with a possession date of September 1, 1993. The final settlement date was September 15, 1993. In addition, he signed a sales contract on August 16, 1993, to purchase a residence in the Washington, DC, metropolitan area. The settlement date of that purchase was September 23, 1993.

On September 17, 1993, Mr. Chambers began a detail from Ogden, Utah, to Laramie, Wyoming; York, Nebraska; Galesburg, Illinois; and Zanesville, Ohio, with a scheduled return to Ogden, Utah. According to the travel authorization dated October 5, 1993, the travel was authorized to begin on September 17, 1993, and end on September 21, 1993. Instead of returning to Ogden, however, Mr. Chambers traveled to Washington, DC, from Ohio on September 21, 1993, and later submitted a voucher for reimbursement of expenses incurred in Washington, DC, on September 27, 28, and 30, 1993. Mr. Chambers was on leave September 22-24, 1993. Apparently, Mr. Chambers was detailed to Forest Service headquarters in Washington, DC, on September 27, 1993, to fill the vacant position there pending approval of his transfer.

OPINION

As a general rule, administrative authorization is a necessary condition to the government assuming the relocation expenses of a transferred employee. 54 Comp. Gen. 993 (1975). Ordinarily, the authorization is evidenced by formal written travel orders issued prior to the performance of the travel. Nevertheless, we have held that reimbursement of expenses incurred prior to the issuance of travel orders may be allowed if the subsequently issued travel orders authorize relocation expenses on

the basis of a previously existing administrative intention to transfer the employee evident at the time the expenses were incurred. Caridad A. Smith, B-204480, June 8, 1982. What would constitute a clear intention to transfer an employee depends on the specific circumstances of each case. 48 Comp. Gen. 395, 396 (1968); James H. Hogan, B-191912, Apr. 5, 1979.

We have held in past decisions that verbal notification of a tentative selection for a position may constitute a clear intention to transfer an employee. Gerald S. Beasley, B-196208, Feb. 28, 1980, and cases cited. We have also found that the requisite administrative intention exists where agency officials orally advise the employee that his transfer is contingent on the occurrence of a particular event. John J. Fischer, B-188366, Jan. 6, 1978.

In this case, Mr. Chambers was notified in January 1993 that he would be transferred to Washington, DC. Furthermore, the record shows that Forest Service officials actively pursued a waiver of the transfer restrictions from April 1993 to December 1993. These actions clearly show an administrative intention on the part of the agency to transfer Mr. Chambers to Washington, DC, contingent only upon the granting of an exception to the department-wide freeze on transfers. Since Mr. Chambers incurred his real estate and other relocation expenses only after being advised by Forest Service officials that he would be transferred, albeit contingent upon approval of the exception, we believe that the test stated above has been complied with and Mr. Chambers may be reimbursed for allowable relocation and real estate expenses.

The certifying officer also questions whether Mr. Chambers may be reimbursed for expenses incurred during his temporary duty travel in September 1993 since the travel authorization was issued after completion of his trip, and his final destination, i.e., Washington, DC, was not authorized by the orders.

The general rule is that travel allowances vest as and when travel is performed under competent orders, and that, in general, such orders may not be revoked or modified retroactively so as to increase or decrease rights and benefits. We have recognized an exception to the above rule when orders may be corrected or completed retroactively to show the original intent. Dr. Sigmund Fritz, 55 Comp. Gen. 1241 (1976). In addition, we have permitted agency approval of travel by administrative action after the fact. See B-198062, June 23, 1981, citing B-197960, Aug. 6, 1980.

Here, the Forest Service's issuance of the orders on October 5, 1993, after the travel was completed appears to us to be satisfactory authority for reimbursement of authorized travel to the designated temporary duty locations. However, travel expenses claimed by Mr. Chambers for his travel to Washington, DC, after his detail ended were not authorized by those orders.

Apparently, Mr. Chambers traveled to Washington, DC, on September 21, 1993, following his temporary duty assignment in Ohio, to begin a detail to the Forest Service's national office on September 27, 1993. Since the transfer orders dated December 22, 1993, authorized Mr. and Mrs. Chambers to travel to Washington, DC, during September 21-28, 1993, his travel expenses to Washington, DC, during that period may be reimbursed. See B-198062 and B-197960, supra.

Additionally, Mr. Chambers submitted three vouchers relating to his change of station for travel by his wife, temporary quarters occupancy for 4 days for himself and his wife, and shipment of household goods. Since the travel authorization for relocation travel to Washington, DC, dated December 22, 1993, authorized spousal travel, shipment of household goods, and up to 60 days' temporary quarters, we see no objection to payment of the three vouchers to the extent proper and allowable under the Federal Travel Regulation, 41 C.F.R. Chapter 302 (1995), provided there is no duplication of payments made for temporary duty travel as authorized above.

/s/ Seymour Efros
for Robert P. Murphy
General Counsel