



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

31584

B-179445

September 21, 1973

Mr. Daniel G. McQueen
643 Kodiak Court, #3
Sunnyvale, California 94087

Dear Mr. McQueen:

We refer to your letter of July 25, 1973, requesting reconsideration of our Transportation and Claims Division action dated June 7, 1973, which disallowed your claim for reimbursement in the amount of \$658 for the air travel of your dependent wife from Paris, France, to San Francisco, California, incident to your relief from active duty in the U.S. Army.

The record shows that by Special Orders Number 44 dated March 2, 1972, you were transferred from your assigned unit, the 502d Army Security Agency Group, Augsburg, Germany, to Fort Jackson, South Carolina, for separation processing. Concurrent travel of your dependent wife was authorized. You were released from active duty by Special Orders Number 104, dated April 27, 1972, effective that date.

Due to your wife's pregnancy she returned home at your own expense on February 20, 1972, arriving in San Jose, California, on February 22, 1972. According to your letter of May 31, 1973, to this Office, your wife departed from Paris, France, for Montreal, Canada, on a commercial airline of foreign registry (Air Canada). Upon arriving at Montreal your wife flew from there to San Francisco, California, also on a commercial airline of foreign registry (Canadian Pacific Air). The record shows that direct flights were available on American-flag carriers from Paris to San Francisco during the period of those flights.

Your claim for reimbursement in the amount of \$658 for your dependent wife's travel from Paris to San Francisco was denied on the basis of paragraph 117000-7 of the Joint Travel Regulations. The settlement allowed you \$14.58 representing mileage allowance for the distance between Augsburg, Germany, to Paris, France (not to exceed entitlement from Augsburg to Frankfurt, Germany, the location of the port of aerial embarkation), and from San Francisco, California, to San Jose, California.

[Claim for Reimbursement of Air Travel Expenses for
Dependent Wife]

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Sections 404 and 406 of title 37, United States Code, provide that, under regulations prescribed by the Secretaries concerned, a member of the uniformed services and his dependents are entitled to transportation at Government expense from last duty station to home upon release from active duty.

Regulations issued pursuant to the above statutory authority are contained in the Joint Travel Regulations (JTR), Paragraph H7000-7 thereof provides that members of the uniformed services are entitled to transportation of dependents at Government expense upon a permanent change of station (which includes the change from last duty station to home upon release from active duty), except for any portion of travel performed by a foreign registered vessel or airplane if American registered vessels or airplanes are available by the usually traveled route.

Under paragraph H2150, JTR, the use of vessels or aircraft registered under the laws of the United States is required, unless determined impractical or not available. Paragraph H2150 specifies that where the transportation or other appropriate officer determines that the use of vessels or aircraft registered under the laws of the United States would seriously interfere with or prevent the performance of official business, he may authorize the use of vessels or aircraft of foreign registry. Such determination may not be based upon mere inconvenience in securing transportation or short delays in awaiting transportation in vessels or aircraft of United States registry, the desire to arrange circuitous routes for the convenience of a traveler, or for any similar reasons.

Since your wife performed her travel from Paris, France, to San Francisco, California (via Montreal, Canada), on commercial airlines of foreign registry (Air Canada), and direct flights between these two cities were available on American-flag carriers at that time, reimbursement of any part of the expenses incurred for this travel is clearly prohibited by paragraphs H7000 and H2150 cited above in the absence of an official determination that the travel could not have been performed on a ship or aircraft of United States registry. While we regret that you were not informed of the above regulations prior to your wife's travel, these regulations, promulgated pursuant to statutory authority, have the force and effect of law and cannot be waived by this Office. See decision B-263715, May 2, 1968, copy enclosed.

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Consequently, the denial of your claim for reimbursement of the cost of your wife's travel from Paris to San Francisco, must be sustained.

Sincerely yours,

Paul G. Danblin

For the Comptroller General
of the United States

Enclosure