



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Gail Braten

File: B-262009

Date: December 5, 1995

DIGEST

An employee assigned to a temporary duty assignment originally was not authorized to rent a car and relied on public transportation to commute to and from work and for personal travel. In the third month of her detail, she requested the use of a rental car, because her spouse and children needed transportation for doctor's appointments and for grocery shopping. The agency amended her travel orders accordingly. The employee continued to use public transportation to commute to and from work and used the rental vehicle for the reasons stated. Although the district finance officer at the employee's permanent duty station denied her claim for the rental car, the claim is payable. Travel orders may not be amended retroactively to deny reimbursement unless the orders are clearly erroneous. The orders here were not clearly erroneous since an agency regulation permits employees for whom a rental car has been authorized to use the vehicle to travel to places "for the sustenance, comfort, or health of the employee" Joint Travel Regulation Vol. II, para. C2102(F).

DECISION

The U.S. Army Corps of Engineers asks whether Ms. Gail Braten's claims for a rental car and garage and parking fees, which she incurred while on a temporary duty assignment, are payable. The answer is yes.

BACKGROUND

Both Ms. Braten and her spouse are employees stationed in the agency's Anchorage, Alaska office. The agency selected both of them to participate in Executive Development assignments, which required about 6 months of temporary duty assignments at its Washington, D.C. headquarters building from November 1993 until April 30, 1994. Accordingly, the agency issued each of them separate travel orders. Ms. Braten and her spouse obtained lodgings on a monthly rental basis, and each of them claimed half the rent on their individual vouchers. The couple took their children, then ages 1 and 3, with them to Washington.

The original travel orders for Ms. Braten and her spouse did not authorize the use of a rental car. The couple used the subway to commute to and from their temporary lodgings and the agency's headquarters. Early in 1994, Ms. Braten's spouse and children needed transportation to doctor's appointments and, she states, using the subway and taxis to do so proved difficult because the harsh winter weather disrupted the public transportation. She also states that grocery shopping became very difficult because of the weather.

Ms. Braten advised the agency's Chief of Travel and Transportation of her family's situation, who informed her that she could be authorized a rental car. Subsequently, Ms. Braten asked her supervisor to approve the use of a rental car. The supervisor supported the request and requested further approval from his supervisor, who also concurred in the request. Accordingly, the agency amended Ms. Braten's travel orders on February 17, 1994, to authorize the use of a rental car.

Ms. Braten continued to use the subway to commute to and from work because of parking costs. She used the rental car primarily around the area of her lodgings. She continued to use the rental car until her assignment ended the following April. Subsequently, she claimed \$1,860.92, for the cost of the rental car and \$165.66, for parking expenses near her lodgings.

The Alaska district finance and accounting officer who reviewed Ms. Braten's vouchers denied her claims based on an agency regulation that states, in part, "Personal preference or minor inconvenience will not be the basis for authorizing or approving the use of a special conveyance instead of a cheaper mode of transportation." Joint Travel Regulation (JTR) Vol. II, para. C2102(A). The chief of the headquarters finance and accounting division questions the denial based on another agency regulation, which provides:

"When a commercially rented or leased vehicle is used by an employee for official travel, its use shall be limited to official purposes which include transportation between places where an employee's presence is required incident to official business; between such places and places of temporary lodging when public transportation is unavailable or its use is impractical and between either of the foregoing places and to places necessary to obtain suitable meals, drugstores, barber shops, places of worship, cleaning establishments, and similar places required for the sustenance, comfort, or health of the employee to foster the continued efficient performance of Government business." JTR para. C2102(F).

To resolve the matter, the chief has requested an advance decision from this office.

OPINION

The crucial fact here is that Ms. Braten did obtain an amendment to her travel orders to authorize the use of the rental car, and travel orders should not be amended retroactively to deny reimbursement unless the orders are clearly erroneous. Peter R. Maloney, B-229466, Dec. 5, 1988.¹

In this case, we cannot say that the agency's decision to approve the use of the rental car was clearly erroneous. Although JTR para. C2101(A) prohibits the agency from authorizing the use of a rental car solely for "personal preference or minor inconvenience," JTR para. C2103(F) authorizes the use of rental cars by employees engaged in temporary duty travel when public transportation is unavailable or impractical "for the sustenance, comfort, or health of the employee." Therefore, even though a rental car may not be necessary for commuting to and from the employee's temporary duty station, an agency may justify the use of a rental car for the types of local travel requested here.

Therefore, the claims for the use of the rental car are payable. The claims for parking and garage fees also are payable. The JTR specifically authorizes reimbursement for these expenses when a rental car is authorized. JTR para. C2102(C)(3) and (4).

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

¹Maloney, supra, involved a uniformed military member. Although uniformed members are subject to a different set of agency regulations, the civilian and military regulations are substantially the same on this matter.