

DATE: January 12, 1998

In Re:

[Redacted]

Claimant

Claims Case No. 97101004

CLAIMS APPEALS BOARD DECISION

DIGEST

Only one Dislocation Allowance may be paid for the Permanent Change of Station of two service members who are married to each other and reside in the same household when the household is disestablished and reestablished once and the members continue to reside in the same household.

DECISION

We have been asked to render a decision regarding the claim of an Air Force member for Dislocation Allowance (DLA).⁽¹⁾ Under Public Law No. 104-316, October 19, 1996, section 3702 of title 31 of the United States Code, which provides for settlement of claims against the United States, was amended to provide that the Secretary of Defense shall settle claims involving uniformed service members' pay and allowances, including travel allowances. The Secretary further delegated that authority to this Office.

Background

The member and her spouse, who is also an Air Force member, performed a Permanent Change of Station (PCS) move under a Joint-Spouse assignment. Their household goods were picked up on July 29, 1997, and delivered on August 6, 1997. The record indicates that they planned to travel together, but for personal reasons they traveled separately. The member's spouse drove to their new duty station and arrived on August 5. The member flew there, arriving on August 7. The member's spouse received a DLA. The member's claim for a DLA was denied because Table 5G-1 of volume 1 of the Joint Federal Travel Regulations (JFTR), Entitlement to DLA When a Member Married to a Member is Transferred, allows payment of only one DLA when a service couple with dependents is transferred together.

The member lists the expenses that she and her spouse incurred at their old and new duty stations incident to their PCS. She points out that the PCS was incident to the realignment of a military installation, and she calls our attention to 1 JFTR paragraph U5630-B12, which refers to the closure or realignment of an installation.

Discussion

Under 37 U.S.C. § 407, a DLA is payable to a member who makes a PCS move if he meets the requirements of 1 JFTR Chapter 5, Part G. The purpose of DLA is to reimburse a member at least in part for the unavoidable expenses incident to a PCS, expenses such as the loss of security deposit, fees for disconnecting and reconnecting utilities, and breakage and depreciation of household goods. See DOHA Claims Case No. 96110801 (June 26, 1997). DLA is equal to two months of Basic Allowance for Quarters for the member's rank and dependency status. Since the amount is set by statute, a member is not required to itemize his expenses, but expenses in excess of the statutory amount are not reimbursable.

In DOHA Claims Case No. 96110801, supra, we dealt with two service members who were married to each other who performed a PCS move. The husband departed from their old duty station on June 5, 1995. He signed in at their new duty station on June 19 after performing Permissive Temporary Duty there for house-hunting. Their household goods were picked up on June 16. His spouse remained at their old duty station until June 21 and reported for duty at their new

duty station on June 30. One member received DLA at the time of the move. We denied the other member's claim for DLA. In applying Table U5G-1 of 1 JFTR, we said that the wife did not move at a "later date," but at substantially the same time as her husband. We said that another critical factor was the fact that only one household was disestablished in one place and reestablished in another, with only one movement of household goods. See 54 Comp. Gen. 665, 669 (1975).

The situation before us is similar to that in DOHA Claims Case No. 96110801, supra. The member moved at substantially the same time as her husband. Only one household was disestablished and reestablished, and only one movement of household goods occurred. Therefore, only one DLA can be paid.⁽²⁾ While it is unfortunate that the member and her family incurred significant personal expenses during their move, payment cannot be made in excess of the amount established by statute.

Paragraph U5630 of 1 JFTR, which the member cites, pertains to payment of DLA in special situations when it would not otherwise be payable. Subparagraph U5630-B12 refers to installation closures or realignments in which DLA would not normally be paid--*e.g.*, when a member's family must move due to a base closure, but no PCS occurs. While the present situation involves the realignment of an installation, the member moved pursuant to PCS orders, and one DLA was payable. Paragraph U5630 therefore does not apply to the member's situation, and in any event it could not be used to authorize payment of a second DLA in contravention of Table U5G-1 of 1 JFTR and relevant DOHA and Comptroller General decisions.

Conclusion

The member's claim is denied.

/s/ _____

Michael D. Hipple

Chairman, Claims Appeals Board

/s/ _____

Christine M. Kopocis

Member, Claims Appeals Board

/s/ _____

Jean E. Smallin

Member, Claims Appeals Board

1. The Claims Appeals Board has decided to render a decision on this matter for administrative reasons.
2. If the member would be entitled to a greater DLA than her husband, she may be paid DLA if he repays the DLA already paid to him.