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DECISION



20431
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20546

Shaban

FILE: B-202054

DATE: December 31, 1981

MATTER OF: Shipment and Storage of Household
Goods for Divorced Service Members

- DIGEST:
1. The permanent change-of-station transportation and storage of household goods entitlements are personal to the member of the uniformed services. Whether to release household goods in storage to a divorced ex-spouse or to use his transportation entitlement to ship household goods to his divorced spouse at an alternate location are matters primarily for the member to decide considering any property settlement agreement or court order.
 2. Any excess charges incurred by a service member as a result of using his transportation entitlement to ship household goods to his divorced spouse at an alternate location must be borne by the member.
 3. Nontemporary storage at Government expense of a service member's household goods should be terminated as soon as practicable after a State court awards the stored property to the member's ex-spouse and the member declines to use his transportation allowance to ship the goods to his divorced spouse. However, the goods may be retained in storage for a reasonable time, not to exceed the member's entitlement period, while the ex-spouse arranges for the disposition of the goods.
 4. It is a matter for the service member to decide whether to use his transportation entitlement to ship household goods to his divorced spouse at an alternate destination. That the ex-spouse is also a service member does not change this. While each member is allowed his transportation entitlement in his own right as a member, if one member agrees to use

his entitlement to supplement the other member's entitlement incident to dividing the household goods upon divorce, he may do so.

5. When household goods are awarded to an ex-spouse of a service member incident to their divorce, the member may authorize shipment of the ex-spouse's household goods under the member's transportation entitlement at Government expense one last time since, although legally the property would no longer be the member's or his dependent's property, it is recognized that ordinarily such property has been shipped to its present location by the Government and is often commingled with goods belonging to or to be used by the member's children.

INTRODUCTION

The Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics) has requested a decision answering questions regarding the shipment and storage of household goods for divorced members of the uniformed services under certain conditions. Our decision is sought in anticipation of adding guidance in this area to Volume 1 of the Joint Travel Regulations (1 JTR) to assist transportation officers in administering the relevant entitlements. The request has been assigned Control No. 80-32 by the Per Diem, Travel and Transportation Allowance Committee.

The Assistant Secretary states that generally members' entitlements to transportation and/or storage for the dependents' household goods are clearly prescribed, though one area is not addressed: whether a member is still owner of the household goods when a divorce is involved and whether the household goods may be shipped at Government expense to the ex-spouse not residing with the service member who has the transportation entitlement.

B-202054

The determinative fact in these cases is that the transportation and storage entitlements are the member's not his dependents'. These entitlements are available only under certain conditions.

The specific questions asked were:

a. Under what circumstances must the member immediately release property which is in storage at Government expense to a divorced spouse?

b. If a member has a shipping entitlement under current permanent change-of-station orders, can the member be forced by court order to involuntarily use that entitlement to deliver the property to a divorced spouse at a distant location either at the member's or Government's expense?

c. If the answer to question b is in the affirmative, would it be proper to bill the member for excess charges where shipping/storage entitlements are exceeded?

d. If the answer to question b is in the negative, should nontemporary storage at Government expense be terminated when the court awards the property to the spouse and the member declines to use his shipping entitlement to deliver the property?

e. Where two members married to one another are divorced, can the senior member be forced to use a portion of his or her weight allowance to supplement the weight allowance of the junior member when the junior member's share of the property exceeds his or her authorized weight allowance?

B-202054

f. Is it proper for a member to sign DD Form 1299 (Application for Shipment and/or Storage of Personal Property) for shipment of property subsequent to the date the property was awarded to a divorced spouse? Is the determining factor whether or not dependent children are involved?

ANALYSIS

Under the provisions of 37 U.S.C. § 406 (1976), a member who is ordered to make a permanent change of station is entitled to transportation and storage of his and his dependents' household goods. These entitlements are subject to implementing regulations, prescribed by the Secretaries of the respective services, which are found in chapter 8, 1 JTR.

Under the applicable statutes and regulations transportation of a member's personal property is an entitlement that is personal to the member. B-193430, February 21, 1979. The storage entitlement is likewise personal to the member. Therefore, generally, as to whether such property is to be released or shipped to the divorced spouse (questions a and b) are matters for the member to decide. Ordinarily, it would appear advisable for the member to comply with the terms of a property settlement entered into incident to a divorce. Also, the member may be held in contempt by a State court if he violates a State court order to release such property to his divorced spouse. However, that is a matter primarily between him, the spouse and the court.

Concerning whether the member is liable for excess costs of storage or shipment of household goods (question c), weight allowances are established at paragraph M8003 of 1 JTR, and members are authorized to ship household goods to alternate destinations by 1 JTR, paragraph M8009. The regulations provide that the member is to bear all transportation costs arising from shipment in more than one lot, for distance in excess of that between authorized places, and for weights in excess of the established weight restrictions. 1 JTR, paragraph M8007-2. This would apply to the situation where a

B-202054

member uses his transportation allowance to ship household goods to his divorced spouse at an alternate destination.

As to whether nontemporary storage should be terminated when a State court awards the property to the ex-spouse and the member declines to use his transportation allowance to ship the household goods to his divorced spouse (question d), the storage entitlement is limited to the member's and his dependents' household goods. Where household goods in storage at Government expense are awarded to a person who is no longer the member's dependent, then the member is no longer entitled to such nontemporary storage. Generally, it should be terminated as soon as practicable. We recognize, however, that at the time the goods were placed in storage they qualified under the member's entitlement. Therefore, we would not object to their remaining in storage at Government expense for a short time, in no case exceeding the member's authorized period of storage, while the ex-spouse arranges for their disposition.

It should be noted that the transportation and storage of household goods entitlements for returning former dependents and their household goods to the United States when they are located outside the United States are somewhat different than those of dependents located in the United States. The entitlement to return of such an ex-spouse and the ex-spouse's household goods from outside the United States are authorized pursuant to 37 U.S.C. § 406(h) by paragraphs M7104 and M8303-3 of 1 JTR, and may be exercised even though the marriage is terminated before the member is eligible for return transportation. See 53 Comp. Gen. 960 (1974). The regulations establish time limits within which such transportation must be completed: within 1 year after the effective date of the final divorce decree or 6 months after the date of relief of the member from the overseas duty station, whichever occurs first. These time limitations manifest the intention that a member's ex-spouse under these circumstances be given adequate time to arrange for such transportation.

As to the situation involving a divorce between two members married to each other and the question of whether

B-202054

one member may be forced to use a portion of his or her transportation entitlement to supplement the other member's entitlement (question e), as noted above, the transportation entitlement is personal to the member. It is a matter for the member to decide whether to use his transportation allowance to ship household goods to his divorced spouse at an alternate destination; that the ex-spouse is also a member does not alter this conclusion.

Finally, as to whether it is proper for a member to sign DD Form 1299 for shipment of property subsequent to the date the property was awarded to the ex-spouse (question f), the same type of analysis would apply as was made in answering question d above. The member's entitlement is limited to the shipment and storage of the member's and his dependents' household goods, and the form requires the member to certify that the property belongs to the member. Where the property is awarded to a divorced spouse, it then legally becomes that spouse's property. However, we recognize that the property in most cases will have been shipped to its present location by the Government as the member's or his dependents' property. In many cases, after divorce some of the property to be shipped will be property belonging to the member's children commingled with that of the ex-spouse. Therefore, we would not object to the member using his transportation entitlement to ship such property one final time incident to dividing it as a result of a divorce. The next time the DD Form 1299 is revised, consideration should be given to modifying its language to specifically cover these types of cases.

Harry R. Van Cleave
For Comptroller General
of the United States