



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: - Jack R. Roeder and Vladimir V. Berniklau -
Temporary Lodging Allowances
File: B-223053
Date: November 10, 1986

DIGEST

Two employees on official business in Reading, England, resided in London because they claimed only minimal lodging was available in Reading. Their per diem reimbursement is limited to the per diem rate for Reading since there is no evidence that suitable lodgings were unavailable in that locality.

DECISION

The issue presented is whether two employees of the Department of Energy, while on temporary duty in Reading, England, may be reimbursed at the per diem rate applicable to London, where they obtained lodgings.^{1/} Since there is no evidence that suitable lodging was unavailable in Reading, the employees' per diem reimbursement is limited to the lower per diem rate for Reading.

BACKGROUND

Jack R. Roeder and Vladimir V. Berniklau, employees at the Department of Energy, Albuquerque Operations Office, participated in a joint U.S./U.K. exercise in the United Kingdom from May 17-June 6, 1985. They had official business in London and at Lakenheath Air Force Base, near Brandon, England, from May 17-28, 1985. From May 25-28, 1985, they lodged in London while on official business there. On May 29-30, 1985, the two employees had official business at the U.K.'s Atomic Weapons Research Establishment (AWRE) in Reading, England.

For the 2 days they were on duty in Reading, the two employees continued to reside in London at the suggestion of

^{1/} This decision is in response to a request from Roger M. Sargent, Director, Financial Management Division, Department of Energy.

037367

their U.K. hosts. The hosts explained that there was an express train between London and Reading, that the AWRE would transport them from the Reading station, and that the hotel accommodations in Reading were "minimal, at best." Reading is approximately 35 miles from London^{2/} and therefore is not included within the Greater London area.^{3/}

Mr. Roeder and Mr. Berniklau submitted travel vouchers to the Department of Energy for May 29-30, 1985, claiming reimbursement at the London per diem rate of \$118 per day. Their reimbursement was limited to per diem at the rate of \$74 per day then applicable to Reading. The travel vouchers were resubmitted and revised for other expenditures, but the Reading rate was still applied to those 2 days. The employees have each submitted a claim for \$88 which is the difference between the London and Reading per diem rates for the 2 days here in issue. They claim that they were not aware of the difference between the London and Reading per diem rates and that the regulations governing overseas per diem are confusing.

Mr. Roeder and Mr. Berniklau also point out that they saved the government money by using the subway while they were in London and traveling between London and Reading by train rather than rent a car, which they were authorized to do. Thus, they indicate they should not be held to the lower Reading per diem rate.

DISCUSSION AND ANALYSIS

The general presumption is that a person on temporary duty will reside at the place of that temporary duty assignment. Hugh R. Carlon, B-194256, September 17, 1979. This presumption underlies the per diem provisions contained in the Federal Travel Regulations (September 1, 1981) as amended, incorp. by ref., 41 C.F.R. § 101-7.003. For travel outside the United States, paragraph 1-7.4d of the Federal Travel Regulations contains but a single exception allowing for reimbursement at a per diem rate other than that of the locality where the employee is on temporary duty. That regulation provides:

"(d) When lodging is not located at duty point. When suitable lodging is not

^{2/} Columbia Lippincott Gazetteer of the World, p. 1562, Columbia University Press, New York, 1962.

^{3/} Joint Travel Regulations, Vol. 2, Appendix A, Footnote 20 (Change No. 246, December 1, 1985).

available at place of temporary duty in a locality beyond the limits of the conterminous United States and the employee is required to obtain lodging at a place in a different locality, the maximum applicable per diem rate shall be that of the locality in which the lodging is obtained."

Messrs. Roeder and Berniklau do not claim that suitable lodgings were unavailable in Reading. Rather, they state that "hotel accommodations in Reading were minimal, at best." As used in this context, the term "minimal" would appear to refer to the number of hotel rooms available and not to the suitability of those accommodations. In disallowing the employees' claims for additional per diem at the London per diem rate, the Department of Energy apparently concluded that suitable accommodations were available in Reading. That conclusion is supported by the employees' failure to claim otherwise and by information available to travelers indicating that there are five hotels or inns located in Reading with a total of 457 rooms. These include two large hotels of more than 140 rooms each.^{4/} Since the employees do not claim that suitable accommodations were unavailable in Reading, the agency correctly applied the above regulations in limiting their per diem to the \$74 rate for that locality. The fact that London offered a vastly broader selection of hotel accommodations does not provide a basis to allow reimbursement at the London per diem rate for days the employees were assigned to temporary duty in Reading.

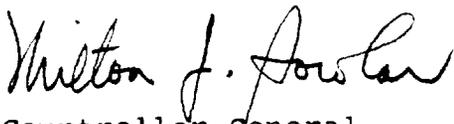
As to the employees' assertion that their use of the subway and other rail transportation rather than renting a car provided a savings to the government, that does not provide a basis to allow the additional per diem costs here in issue. Such a savings, whether potential or actual, is no basis for waiver or derogation from the express provisions of the regulations nor does it create additional entitlement to reimbursement. George W. Mackson, B-220479, March 10, 1986.

The contention by Messrs. Roeder and Berniklau that they were unaware of a differential between the London and Reading per diem rates and that the per diem regulations are confusing, likewise, does not provide a basis to allow the additional per diem claimed. All government employees are charged with

^{4/} Hotel and Travel Index, p. C560, Murdoch Magazines, New York, Summer 1986.

constructive notice of applicable laws and regulations governing travel. John M. Hotaling, B-184766, June 25, 1976; Mena Marano, B-183246, April 10, 1975.

For the reasons stated above we disallow Messrs. Roeder's and Berniklau's claims for additional per diem and hold that the Department of Energy properly reimbursed them for May 29 and 30, 1985, at the \$74 per diem rate applicable to temporary duty performed at Reading, England.

for 
Comptroller General
of the United States