

DECISION



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

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FILE: B-193393

PN

DATE: April 17, 1979

MATTER OF: Mr. J. L. Henderson, Jr.

[Claim for Relocation Allowances Incident to Permanent Change of Station]

- DIGEST:
1. Where an employee of the Federal Government is transferred on a permanent change of station, he is entitled to a temporary quarters subsistence allowance under the provisions of 5 U.S.C. 5724a(a)(3), subject to certain limitations, between the time he moves out of permanent quarters at the old station and beginning actual travel to the new station and between arrival at the new station and acquisition of permanent quarters at that location; however, for the period of actual travel (en route) the employee's rights are limited by 5 U.S.C. 5724a(a)(1) to per diem for the number of days officially authorized for such travel.
 2. Where an employee of the Federal Government is transferred on a permanent change of station, and authorized 15 days' travel, but because of personal necessity he incurred delays while en route, in the absence of an administrative determination of official necessity to cover the delays en route, reimbursement for any portion of additional temporary living expenses incurred is not authorized. He is entitled only to per diem under 5 U.S.C. 5724a(a)(1) for the 15 days of authorized travel time.

This action is in response to a letter dated August 25, 1978, from Mr. J. L. Henderson, Jr., an employee of the United States Customs Service, concerning his claim for certain relocation allowances believed due incident to a permanent change-of-station transfer in 1972. AGC 00156

The matter of this claim was the subject of a settlement by our Claims Division, dated May 1, 1978, which disallowed his claim for temporary quarters subsistence allowance for any of the period he was en route to his new permanent duty station.

In response to ^{a previous disallowance} that settlement, the employee contends that under the applicable regulations he is entitled to both per diem and to

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B-193393

subsistence in accordance with the conditions and limitations specified for each but not to both at the same time. As a result, he believes that where travel necessarily exceeds the time officially allotted for it, an employee is entitled to the subsistence allowance for the additional time.

The file shows that in August 1972, the employee was authorized to make a permanent change-of-station move from Washington, D. C., to Anchorage, Alaska, effective September 17, 1972, for himself and his family, including transportation of his household goods and personal effects to his new post of duty. For the purpose of travel per diem, he was authorized 15 days' travel time by privately owned vehicle.

Instead of having his household goods and personal effects shipped to his new duty station by commercial carrier under a Government Bill of Lading, the employee chose to haul the goods himself. According to the employee, through a series of mishaps, which required periodic layovers, instead of reporting to his new official duty station on September 17, 1972, he was unable to report for duty until November 6, 1972, approximately 50 days after he left the Washington, D. C. area.

Section 5724a of title 5, United States Code, authorizes the reimbursement of all or part of certain expenses incurred by an employee for whom the Government pays travel and transportation expenses. Among the expenses authorized to be paid are per diem while en route (subsection (a)(1)), and subsistence expenses of the employee and his immediate family for a period of 30 days while occupying temporary quarters where the new official station is located in the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone (subsection (a)(3)).

The regulations in effect during the period of the claim are contained in Office of Management and Budget (OMB) Circular A-56, Section 8, thereof, entitled "SUBSISTENCE WHILE OCCUPYING TEMPORARY QUARTERS" provides in part:

"8.2 Conditions and limitations of eligibility

"a. Length of time allowed and location of new official station. Subsistence expenses of the employee, for whom

a permanent change of station is authorized or approved, and each member of his immediate family (defined in 1. 2d), for a period of not more than 30 consecutive days while necessarily occupying temporary quarters will be allowed when the new official station is located in the 50 States * * * provided a written agreement as required in 1. 5a is signed in connection with such transfer. The period of consecutive days may be interrupted to take account of the time that is allowed for travel between the old and new official stations or which is due to circumstances attributable to official necessity, as for example, an intervening temporary duty assignment.

* * * * *

"c. What constitutes temporary quarters. Temporary quarters refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee and/or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized.

* * * * *

"i. Duplication of other allowances. In no case shall subsistence expenses under these provisions be allowed which duplicate in whole or part payments received under other laws or regulations covering similar costs. * * *"

In connection with the foregoing, section 2. 2 of those regulations provides in part:

"b. Per diem allowance when en route between employee's old and new official station. When an employee is transferred, an allowance shall be paid for per diem in lieu of subsistence expenses incurred by the employee's immediate family while traveling between the old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance will not exceed the amount

B-193393

to which members of the immediate family would have been entitled if they had traveled by usually traveled route between the old and new official stations. * * *"

Also, section 2.3d(2) provides as follows for the maximum per diem allowance when the employee uses a privately owned vehicle:

"(2) Maximum allowance based on total distance. Per diem allowances will be paid on the basis of the actual time used to complete the trip but such allowances may not exceed an amount computed on the basis of a minimum driving distance per day which is prescribed as reasonable by the authorizing official and is not less than an average of 300 miles per calendar day."

For the purpose of the various benefits, each of these provisions are severable; that is, they represent separate and distinct entitlements for expense reimbursement purposes. Clearly, when an individual travels from an old official station to a new official station, it might be said that travel begins when he moves out of his permanent residence at his old station and that the travel ends when he moves into his permanent residence at the new station. However, for the purposes of reimbursement of expenses under 5 U.S.C. 5724a(a)(1) and (3), the concepts involved must of the necessity be more narrowly construed.

It is recognized that prior to the initiation of actual travel, permanent quarters at the old station may have to be terminated early, and upon the conclusion of actual travel to the new duty station, permanent quarters may not yet be available. Section 5724a(a)(3), therefore, takes into account the possibility of temporary delay time between the time the employee moves out of his permanent quarters at his old station and the beginning of actual travel to his new station (B-181032, August 19, 1974 and B-185514, September 2, 1976) and between the time he arrives at his new station and succeeds in acquiring permanent quarters at that location (B-177570, February 20, 1973, but compare B-183636, July 31, 1975).

While it is true that the underlying concept of the need for quartering and meals is applicable to the period of travel, subsection 5724a(a)(1) specifically provides for per diem to cover such

B-193393

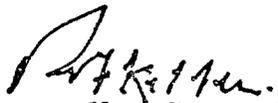
expenses for the portion of travel which is en route. En route travel is generally definable as the period beginning when the employee leaves the old station and ending when he arrives at the new station. Thus, whatever temporary quartering and subsistence expenses are incurred while en route is covered by per diem and predicated on the officially authorized number of days for such travel.

In this case it appears that the employee was paid per diem for 15 days' travel time, which based on about 4,400 miles traveled, would be the maximum travel time authorized for per diem using the minimum of 300 miles per day traveled. Section 2.3d (2), Circular A-56, supra.

We can appreciate that delays can occur during the actual performance of travel, delays which may be anticipated or unanticipated. However, unless such delays en route are administratively considered and approved as being officially necessary and on Government business, reimbursement for such expenses either in the form of per diem or temporary quarters/subsistence allowance for the additional time is not authorized. See B-185338, February 19, 1976, and decisions cited therein.

In the present case, there is no evidence that the employee occupied temporary quarters before he began his travel or following arrival at his destination. He occupied temporary quarters during the period he was en route because of personal delays. In the circumstances, there is no legal basis upon which reimbursement may be authorized.

Accordingly, the action of Claims Division disallowing that claim is sustained.


Deputy Comptroller General
of the United States