

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

FILE: B-183583

DATE:

FEB 2 1976

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MATTER OF: Morgan R. Davis - Subsistence expenses at temporary quarters owned by relative

DIGEST: Employee with wife and three children claimed \$1,660 for expenses of room and board incurred while occupying temporary quarters owned by relative incident to permanent change of official station. Amount paid to relative was based on rates charged at local commercial establishment. Employee is entitled to reimbursement of \$775 since employing agency determined that amount to be reasonable for room and board under the circumstances and only the reasonable value of expenses may be reimbursed.

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This action is in response to the letter of Clyde M. Wobber, National President of the American Federation of Government Employees, dated March 31, 1975, on behalf of Morgan R. Davis, claimant, requesting reconsideration of the claim settlement of our Transportation and Claims Division (TCD), dated October 31, 1974, disallowing in part Mr. Davis' claim for reimbursement of temporary quarters subsistence expenses in the amount of \$1,660.

The record indicates that Mr. Davis, a civilian employee of the Department of the Army, his wife, and three children--7, 10, and 12 years of age--took up residence at the home of his mother in Wilkes-Barre, Pennsylvania, for the 30-day period from September 10 to October 9, 1973, incident to a transfer of official duty station from Zweibruecken, Germany, to Tobyhanna, Pennsylvania, under authority of Travel Order No. PDZ-7-30 issued on July 23, 1973. He claimed \$1,050 for rent (\$35 per day), including utilities, and \$610 for meals. The Finance and Accounting Officer denied payment because the total amount claimed appeared to be "expensive and more than a prudent person would pay." The claim was forwarded to TCD by the U.S. Army Finance Support Agency. Pursuant to a TCD request, a determination was made by Headquarters at Tobyhanna Army Depot that a reasonable amount for the 30-day period would be \$775, consisting of \$400 for quarters and \$375 for subsistence. Accordingly, that amount was allowed by the settlement of October 31, 1974, instead of \$1,489.50, the maximum amount allowable under pertinent regulations.

Part 5 of chapter 2, Federal Travel Regulations (FPMR 101-7) (May 1973), authorizes the payment of subsistence expenses of an employee and his immediate family while occupying temporary quarters in connection with a transfer of official duty station. Reimbursement is allowed for actual subsistence expenses incurred provided they are incident to occupancy of temporary quarters and are reasonable as to amount, as provided in FTR para. 2-5.4a (May 1973).

Our Office has frequently allowed claims for reimbursement of expenses for temporary quarters provided by a relative of the employee. Concerning the amount allowable we stated the following in our decision published at 52 Comp. Gen. 78 (1972):

"We point out that in the past we have allowed reimbursement for charges for temporary quarters and subsistence supplied by relatives where the charges have appeared reasonable; that is, where they have been considerably less than motel or restaurant charges. It does not seem reasonable or necessary to us for employees to agree to pay relatives the same amounts they would have to pay for lodging in motels or meals in restaurants or to base such payments to relatives upon maximum amounts which are reimbursable under the regulations. Of course, what is reasonable depends on the circumstances of each case. The number of individuals involved, whether the relative had to hire extra help to provide lodging and meals, the extra work performed by the relative and possibly other factors would be for consideration. In the claims here involved as well as similar claims we believe the employees should be required to support their claims by furnishing such information in order to permit determinations of reasonableness." (Emphasis added.)

Mr. Davis does not explain how the rental figure of \$35 per day was arrived at, but he states his belief that it was a reasonable rental in light of the fact that the rate at a local motel for a family of five would have been \$38 per day. It is the responsibility of the employing agency, in the first instance, to insure that the expenses claimed are reasonable. Since this is a question of fact and because the Tobyhanna Army Depot is in a better position as it is more familiar with the circumstances present in the local area in this particular case, we give great weight to that agency's determination as to what is reasonable.
B-182135, November 7, 1974.

Although we have the right and the duty to make an independent examination in each case submitted to us, in the absence of evidence indicating that the agency's determination was clearly erroneous, arbitrary or capricious, we will not substitute our judgment for that of the agency. Mr. Davis has given us no evidence showing that the agency's determination was clearly erroneous, arbitrary or capricious. Rather, he merely points out that the rate he paid to his mother for quarters in her home were slightly below the commercial rate in the area, and no indication is given as to how the rates charged for meals were determined. This does not meet the standard set forth previously in our decision at 52 Comp. Gen. 78 wherein we stated that rates paid to relatives are not reasonable unless "considerably less than motel or restaurant charges." It should also be noted, as indicated in that decision, that the employees are required to support their claims with sufficient information to permit determinations of reasonableness. Mr. Davis has not presented evidence that his agency's determination is incorrect nor has he given our Office sufficient information to make an independent determination. Accordingly, we may not accept the claimant's bare assertion that his claim was reasonable as overcoming the agency's determination.

In his letter of March 31, 1975, Mr. Webber requested allowance of the additional amounts claimed and stated that "According to C 8255 of the DOD /Department of Defense/ Joint Travel Regulations, Mr. Davis would be entitled to much more than \$26.00 per day." It should be noted that 52 Comp. Gen. 78 emphasized that amounts paid to relatives for lodging and meals should not be based upon the maximum amounts allowable under the regulations but upon what is considered reasonable.

Accordingly, Mr. Davis' claim for additional subsistence allowance in excess of \$775 was properly denied, and the settlement of our Transportation and Claims Division is sustained.

R. F. KELLER

(Deputy)

Comptroller General
of the United States