

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

FILE: B-184137

DATE: DEC 29 1975

60332

099 ~~397~~
290MATTER OF: Russell E. Archer - Claim for Temporary
Quarters Incident to Permanent Change
of Duty Station

DIGEST:

1. Where employee, on permanent change of duty station, leaves 3 days prior to scheduled travel days, employee is entitled to temporary quarters allowance upon early arrival at new duty station. Entitlement to temporary quarters allowance under Federal Travel Regulations (FPMR 101-7)(May 1973) is not affected by early departure.
2. Employee traveled to new duty station and was absent from station for 3 days while visiting nearby cities prior to reporting for duty. He would be entitled to temporary quarters allowance absent any indication trip caused unwarranted extension of period of temporary quarters since fact that employee was away from old or new duty station or that he was on annual leave has not been held determinative of entitlement by itself. Therefore, case is remanded for administrative determination of whether 3-day trip caused unwarranted extension of temporary quarters occupancy.

This action is in response to the request for a decision by an authorized certifying officer of the Bureau of Mines, United States Department of the Interior, regarding payment of the re-claim voucher of Mr. Russell E. Archer for a portion of the employee's temporary quarters allowance which was withheld by the administrative office. Mr. Archer claimed temporary quarters in connection with a permanent change of duty station.

The record indicates that the employee was transferred from Denver, Colorado, to Albany, Oregon, and was allowed reimbursement of his expenses under the Federal Travel Regulations (FPMR 101-7) (May 1973). The Travel Authorization, dated June 4, 1974, stated that the employee's period of travel was to begin on or about June 24

099290-499290

(Monday) and end on or about June 27, 1974 (Thursday), and that he was to report for duty at his new station on or about July 1, 1974. Mr. Archer, accompanied by his wife, left Denver at 4 p.m. on June 21 (Friday), and traveled to his new station by automobile as authorized. The Archers arrived in Albany at 10 p.m. on June 24 (Monday).

Based on the vouchers and receipts provided in the record, it appears that the employee and his wife remained in a motel in Albany on June 25 and 26 and then traveled to the cities of Newport, Tillamook, and Portland, Oregon, the next 3 days, returning to Albany on June 30. Mr. Archer claimed meal and motel or apartment costs for the period of June 25 through July 24 pursuant to his temporary quarters authorization, but the administrative office denied the employee (but not his wife) the allowance for the 3 days the employee and his wife were away from Albany.

In connection with the reclaim voucher for the amount withheld, the certifying officer has posed the following questions:

"(1) Should the fact that employee departed Denver a week earlier than necessary to report for duty July 1, 1974 entitle him to temporary quarters for himself and wife for the early departure?

"(2) Should the employee be reimbursed for the temporary quarters for June 27, 28 and 29, based on the American Legion Convention excuse for no lodging available in Albany?"

The Federal Travel Regulations provide in Chapter 2, Part 5, in pertinent part:

"2-5.1 Policy. Heads of agencies shall prescribe procedures for administering these provisions reasonably and equitably so that the necessity for allowing subsistence expenses and the amount of those on employee and members of his immediate family use temporary quarters is justified in connection with the employee's transfer to a new official station. As a general policy, the period for temporary quarters shall be reduced or avoided if a round trip to seek permanent residence quarters has been made or if, as a result of extended temporary duty at the new official station or other circumstances (for example, if the family does not

move until some time after the employee's transfer), the employee has had adequate opportunity to complete arrangements for permanent quarters.

"2-5.2. Conditions and limitations for 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 2-1.4d) shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rich and the Canal Zone; provided a written agreement as required in 2-1.5a(1) is signed in connection with the transfer. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations or for circumstances attributable to official necessity, as, for example, an intervening temporary duty assignment.

* * * * *

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

"d. Authorizing less than maximum time. The specified time limits are maximum periods, and the normal length of necessary occupancy of temporary quarters is expected to average much less. Temporary quarters should be regarded as an expedient to be used only if or for as long as necessary until the employee concerned can move into permanent quarters.

"e. Time to begin occupancy. The use of temporary quarters for subsistence expense purposes under these provisions may begin as soon as the employee's transfer has been authorized, and the written agreement required in 2-1.5a(1) has been signed. In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his new official station, or if not begun during this period, not later than 30 days from the date

the family vacates the residence at the old official station, but not beyond the maximum time for beginning allowable travel and transportation.

"f. Computation of 30 or 60 days allowable. In computing the length of time allowed for temporary quarters at Government expense under the 30- or 60-day limitations specified herein, such time will begin for the employee and all members of his immediate family when either the employee or any member of the immediate family begins the period of use of such quarters for which a claim for reimbursement is made and the time shall run concurrently. The employee may occupy temporary quarters at one location while members of the immediate family occupy quarters at another location. The period of eligibility shall terminate when the employee or any member of his immediate family occupies permanent residence quarters or when the allowable time limit expires, whichever occurs first." (Emphasis added.)

In regard to the first question, the employee's early departure has no effect on his entitlement to temporary quarters since the use of temporary quarters may begin as soon as the employee's transfer has been authorized and the employee has signed the required service agreement. Federal Travel Regulations, para. 2-5.2e.

As to the second question, the certifying officer withheld the employee's daily rate for the 3 days he was away from Albany on the basis of our decision B-169525, May 11, 1970. The administrative notice of suspensions of items on the original voucher stated:

"Employee not entitled to temporary quarters while absent from his duty station for personal reasons. Motel receipts for June 26, 27, and 28 show employee at Newport, Tillamook and Portland, Oregon on these nights."

On his reclaim voucher, Mr. Archer states that on the dates in question Albany area motels were reserved for a Timber Carnival and an American Legion Convention; that it was impossible to secure an unbroken reservation locally; and, therefore, that our decision B-169525, supra, does not apply. He also notes that he was not required to report for duty until July 1, 1974.

B-184137

The administrative report shows that the State American Legion Convention was held in Albany from June 25 through June 29 and that the Timber Carnival was held from July 2 through July 4. The report also states:

"There are numerous accommodations in small towns within commuting distance of Albany which would have enabled employee to spend additional time looking for permanent quarters."

Our Office has held that, under the Federal Travel Regulations, an employee's entitlement to temporary quarters is not restricted to instances where the temporary quarters were located at either the old or new official station. B-178790, August 1, 1973, and B-165139, October 8, 1968. Further, we have held that an employee is entitled to temporary quarters even though he is on annual leave. B-178790, supra; B-175594, May 31, 1972; B-165139, supra. Many of our prior decisions concerned employees who have taken annual leave during the period of temporary quarters allowance, which raised the question of whether they were on personal business. This question arises because the Federal Travel Regulations state in pertinent part:

" * * * Temporary quarters should be regarded as an expedient to be used only if or for as long as necessary until the employee concerned can move into permanent residence quarters." Para. 2-5.2d.

Therefore, the employee's entitlement is dependent on whether his taking of leave and traveling away from his new duty station caused an unwarranted extension of the period of temporary quarters allowance or a delay in occupying permanent quarters. If the employee has acted expeditiously in attempting to locate permanent quarters and if the employee has occupied permanent quarters as soon as available, he is entitled to temporary quarters allowance for the entire period claimed.

On the basis of the record before us, we cannot determine whether Mr. Archer's actions on the 3 days in question caused an unwarranted extension of the period of temporary quarters allowance. If an administrative determination is made that Mr. Archer's actions caused an unwarranted extension, he is not entitled to temporary quarters allowance for the days in question. Also, in that event, the entire amount claimed for those days should be withheld since the employee's wife accompanied him away from his station

and does not otherwise appear entitled to temporary quarters allowance. On the other hand, if it is determined that Mr. Archer's actions did not cause an unwarranted extension of the period of temporary quarters allowance, the voucher may be paid if otherwise proper.

Accordingly, the voucher is returned for action in accordance with the above discussion.

R. F. Kellor
Deputy Comptroller General
of the United States