



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

30886

B-175183

May 8, 1973

First Lieutenant Ernest W. Ashenfelter  
810 Litchfield  
Wichita, Kansas 67203

Dear Lieutenant Ashenfelter:

Reference is made to your letter dated January 1, 1973, in which you request further consideration of your claim for additional per diem and reimbursement for local travel believed due for the period September 11, 1970, through September 30, 1970, incident to your service in the United States Army.

You were advised in our decision of November 9, 1972, B-175183, that based on the law and regulations in effect during the period of your claim, particularly the provisions of paragraph M4209 of the Joint Travel Regulations, your [entitlement to per diem for temporary duty (TDY) and reimbursement for local travel] terminated on September 10, 1970, and the settlement dated October 1, 1971, which allowed you the sum of \$85.50 as per diem for the period subsequent to that date was improper.

You express the belief that you are entitled to per diem for temporary duty and reimbursement for local travel from the effective date of your basic orders until the effective date of later orders which modified those basic orders, and therefore you should receive temporary duty allowances until the date of your separation from active service.

In this regard, you say that although orders No. 195 were issued on September 10, 1970, these orders did not change your financial status in any way other than the loss of per diem assistance, which you contend is partially substantiated by the statement of nonavailability of quarters from the Commanding Officer at Aberdeen Proving Ground; that you had your privately owned vehicle (POV) there with no orders or time allowance for POV transportation to home of record and that you were still required to pay the TDY rate for meal purchases during your stay. Further, you say that the September 10 orders were not in your possession until 5 days later.

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As you were advised in our decision of November 9, 1972, paragraph M4209 of the Joint Travel Regulations provides that a member at a temporary duty station who receives permanent change-of-station orders which designate the temporary duty station as his new permanent duty station effective immediately, during the continuation of the temporary duty period, or upon completion of that temporary duty, is not entitled to per diem at that station beginning on the date of receipt of such permanent change-of-station orders.

It was assumed that the September 10 permanent change-of-station orders were received by you on the same date, since the orders were issued at your station, Aberdeen Proving Ground, and they normally would have been delivered to you on the same day. You have stated, however, that you did not receive them until 5 days after issuance. You do not say when you received notice of the orders, but in these circumstances it will be assumed that you did not receive notice prior to their delivery. Therefore, since paragraph M4209 of the Joint Travel Regulations calls for termination of per diem on the date of receipt of such permanent change-of-station orders, and in view of your statement in this regard, additional per diem and reimbursement for local travel will be allowed, as otherwise authorized, for the additional 5-day period.

Accordingly, we have today issued instructions to our Transportation and Claims Division to allow your claim on the basis indicated above. A settlement will issue in due course allowing you the amount found due, such amount to be applied to the extent required in liquidation of the prior overpayment resulting from the settlement of October 1, 1971.

With regard to your contention that you were charged TDY rates for your meals for the entire period of your duty assignment at Aberdeen Proving Ground, it appears that you should have been charged only the permanent duty station meal rates from the time Aberdeen Proving Ground became your permanent station. A claim for refund of the excess amounts you were charged for meals at the TDY rate at the messing facilities at Aberdeen Proving Ground will be given consideration provided you are able to satisfactorily establish the number of meals you ate there during that period, the TDY rates you were charged and the permanent station rates for such meals.

Sincerely yours,

Paul G. Dembling

For the Comptroller General  
of the United States