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**DECISION**



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

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FILE: **B-182943**

DATE: **FEB 20 1975**

MATTER OF: **Leon Silverstrom--Per diem during temporary duty  
assignment at former permanent duty station**

DIGEST: **Claim of AEC employee for per diem is allowable for  
temporary duty at former permanent duty station  
(Germantown, Md.) before reporting for duty at new  
permanent duty station (Las Vegas, Nev.) since  
employee did not accomplish PCS move to Las Vegas  
solely because of urgent need for services at  
former station and has vacated residence at former  
duty station, entered real estate purchase contract  
at new station and shipped household goods to new  
station in reliance on official notification of  
transfer.**

This matter concerns the request of a certifying officer for an advance decision as to the propriety of paying the claim of Leon Silverstrom, an employee of the Atomic Energy Commission (AEC), Germantown, Maryland, for per diem in lieu of subsistence while performing temporary duty at Germantown.

According to the submission from the certifying officer, Mr. Silverstrom entered into a temporary duty status at Germantown shortly after his appointment and authorized transfer to another position with the AEC at Las Vegas, Nevada. This appointment and the accompanying change in permanent duty station were formalized by documents issued during early November 1974, with an effective date of transfer of December 1, 1974. Upon receiving notice that his reporting date in Las Vegas would be December 1, 1974, Mr. Silverstrom terminated his apartment lease, traveled to Las Vegas on a house hunting trip and signed a real estate purchase contract, vacated his apartment, and delivered his household goods for shipment to Las Vegas.

Soon after these events occurred Mr. Silverstrom was unexpectedly called upon by AEC Commissioner William A. Anders, who is now Chairman of the new Nuclear Regulatory Commission (regulatory successor to the AEC), for immediate temporary assistance in carrying out the organizational transition from the AEC to the new Commission. The beginning date of this temporary assignment closely coincided with the date Mr. Silverstrom was scheduled to begin duty in Las Vegas, December 1, 1974. Because his services were urgently needed by Commissioner Anders,

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Mr. Silverstrom did not report for duty in Las Vegas on December 1, 1974, but remained at his old duty station for an additional period of time. We have informally been advised that he began his authorized travel to Las Vegas, on or about January 2, 1975, and has recently entered upon his duties there.

Inasmuch as Mr. Silverstrom's temporary duty was performed at Germantown, which remained his permanent duty station until he entered upon his new assignment in Las Vegas, a question was raised as to whether the payment of per diem for temporary duty at Germantown would be proper under the Federal Travel Regulations and decisions of this Office.

It is clear under the Federal Travel Regulations (FPMR 101-7), May 1973, para. 1-7.6a, that per diem in lieu of subsistence may not be allowed at an employee's permanent duty station. In addition, under FTR para. 2-1.4, the effective date of a transfer from one duty station to another is the date on which the employee reports for duty at the new station. Construing these two provisions together would appear to impose a mandatory requirement that in all cases an employee must actually report for duty at the new duty post before it could be regarded as a permanent duty station, so as to entitle the employee to per diem at another place (including the former permanent duty station) where temporary duty is performed.

Various Comptroller General decisions have, however, recognized that special circumstances justify exceptions to the general rule that precludes per diem at the permanent duty station. For example, exceptions have been made when an employee incurred expenses for lodging and meals because permanent quarters were relinquished in reliance on a valid transfer order effective on a date certain and travel to the permanent duty station could not be performed because of mechanical trouble on the only available flight to his new station (B-140423, September 24, 1959) or because of an airline strike that prevented travel to an overseas duty post (B-160366, January 12, 1967). Another decision allowed per diem to a new employee while performing temporary duty in the same area where she had been recruited and before she actually began duty at a permanent station in another area. The allowance was based on the fact that she had taken significant steps (securing housing and moving household goods) to establish residence at the permanent duty station designated by her appointment documents. See B-147047, November 9, 1961.

The facts presented in the instant case warrant application of the exceptional circumstances rule to allow payment of per diem at the permanent duty station. We agree with the AEC's General Counsel, whose opinion was included in the submission, that Mr. Silverstrom reasonably relied on the travel orders issued by AEC authorizing his permanent change of station to Las Vegas on December 1, 1974, and significantly changed his position by vacating his apartment near Germantown, entering into a real estate purchase contract in Las Vegas, and shipping his household goods to Las Vegas. It appears that he had no choice but to incur the subsistence expenses claimed when suddenly ordered to perform a stint of temporary duty at his old station on an emergency basis.

Therefore, under the circumstances in this case, we have no objection to paying Mr. Silverstrom per diem in lieu of subsistence while performing temporary duty in Germantown from December 1, 1974, the date he was scheduled to report for duty in Las Vegas, to the date he completed his temporary duty in Germantown.

R. F. KELLER

Deputy Comptroller General  
of the United States