

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

60574

FILE: B-184565

DATE: FEB 27 1976

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MATTER OF: Elven E. Conklin - Subsistence Expenses
While Occupying Temporary Quarters

DIGEST: Employee who rents house at new duty station which becomes his permanent residence with intent to look for more suitable housing may not be reimbursed for subsistence expenses while occupying temporary quarters, as intent to find better housing at some future time is too indefinite to support conclusion that rented quarters were temporary. See B-179870, September 26, 1974.

Mr. Orris C. Huet, an authorized certifying officer at the National Finance Center of the Department of Agriculture, requests an advance decision on the reclaim travel voucher of Mr. Elven E. Conklin. The reclaim in the amount of \$883.37 is for subsistence expenses while occupying temporary quarters. The claim was originally denied by the Department of Agriculture in accordance with our decision, B-166728, June 24, 1969, as Mr. Conklin later purchased the residence which he occupied as temporary quarters.

The record shows that Mr. Conklin was issued Travel Authorization No. 0219443, dated January 29, 1974, in connection with a permanent change of duty station from Albert Lea, Minnesota, to Sioux City, Iowa. Mr. Conklin and his family left Albert Lea, Minnesota, on March 3, 1974, and arrived in Sioux City, Iowa, on the same day at which time they began occupying a residence located at 3232 Viking Drive in Sioux City. On April 18, 1974, Mr. Conklin purchased this residence having rented it for the previous 6 weeks.

In his reclaim Mr. Conklin contends that it was not his intention to purchase the house at 3232 Viking Drive at the time he began living in it. Instead, he states that he continued to search for housing that would better fit his financial and living needs. When he was unable to find a more suitable residence, he decided to purchase the house which he had been renting.

Part 5, chapter 2, of the Federal Travel Regulations (FPMR 101 in force at the time in question governs subsistence expenses of employees and their families while occupying temporary quarters when an employee is transferred to a new official station. Paragraph 2-5.2c defines temporary quarters as follows:

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"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."

When an employee in a new location moves into quarters which subsequently become his permanent residence, the determination of whether or not those quarters were temporary is based on the intent of the employee at the time he moves into the lodgings. 53 Comp. Gen. 503 (1974); B-179870, September 26, 1974; B-174971, February 28, 1974. We have consistently held that an employee may not be reimbursed for quarters occupied on a rental basis while awaiting the signing of a sales contract. B-183641, October 9, 1975; B-183636, July 31, 1975. In addition, we held in B-179870, supra, that the intention of an employee to move to less expensive quarters at some future time was too indefinite to support a conclusion that the rented quarters were, in fact, temporary.

The record indicates that Mr. Conklin's household goods were delivered to his new home on March 4, 1974, the day following his arrival at his new station. We have not been advised of the date of Mr. Conklin's purchase agreement. However, since Mr. Conklin, in a memorandum dated January 27, 1975, stated that it "did not become final until April 1, 1974," it appears that he agreed to purchase his new home in March. In this connection, the date of April 18, 1974, mentioned by Mr. Conklin in a letter dated May 30, 1975, apparently is the settlement date. Under such circumstances the new home must be considered as his permanent residence from the date he first occupied it.

Accordingly, the reclaim voucher may not be certified for payment.

R. F. Keller

Deputy Comptroller General
of the United States