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**DECISION**



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

**FILE:** B-185740

**DATE:** March 15, 1977

**MATTER OF:** Charles J. Frisch--Actual subsistence expenses

**DIGEST:**

1. NLRB employee was authorized actual subsistence expenses of up to \$42 per day during temporary duty assignment in Washington, D.C. Employee obtained lodging at apparently reasonable daily rate of \$13.78, but he spent between \$27.10 and \$38.25 daily for meals and submitted claim for daily expenses at or near maximum rate. Employee is entitled to reimbursement only for reasonable expenses for meals since travelers are required to act prudently incurring expenses. Employing agency must determine what constitutes reasonable expenses for meals under the circumstances. B-186078, October 12, 1976.
2. Paragraph 1-8.5 of the Federal Travel Regulations requires that itemization of expenses by traveler on actual expense basis shall be made in manner prescribed by head of agency which will permit at least review of amounts spent daily for lodgings, meals, and all other items of subsistence expense. Agency may determine reasonableness of claim for reimbursement of meals by traveler who itemized costs of meals on daily basis since only daily itemization was required by agency regulations. However, itemization of each meal would afford better basis for determining reasonableness of claims for reimbursement of meals of travelers on actual expense basis.

By letter dated June 16, 1976, James A. Stepien, an authorized certifying officer of the National Labor Relations Board (NLRB), requests an advance decision regarding the claim of Mr. Charles J. Frisch, an employee of the NLRB, for actual subsistence expenses incurred while on temporary duty.

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Mr. Frisch, who was stationed at Minneapolis, Minnesota, performed temporary duty in Washington, D.C., from April 30, 1976, to May 31, 1976. Since Washington is a high rate geographical area under the Federal Travel Regulations, Mr. Frisch was authorized actual subsistence expenses not to exceed \$42 per day while on duty there.

Mr. Frisch claims \$13.78 per day for lodgings for period of temporary duty and has produced receipts to verify this expense. He claims miscellaneous expenses of \$.40 for one day's bus fare, \$5.50 for another day's dry cleaning, and twice claims \$1.50 for a day's laundry. Mr. Frisch also claims between \$27.10 and \$38.25 per day for meals. With the exception of three days for which he claims a total of \$40.88, \$41.83, and \$41.83, respectively, Mr. Frisch claims the maximum daily allowance of \$42.

The certifying officer states the following:

"I am unable to certify the voucher correct for payment because the claim for meals and miscellaneous seem to be unreasonable and possibly an attempt to raise each days claim to the \$42 daily maximum authorized. I therefore, request that Mr. Frisch's claim be examined by your office and that I be instructed as to the amount that may be certified correct for payment by the NLRB.

"The manner in which Mr. Frisch has itemized his expenses while on actual subsistence illustrates a problem area for voucher examiners and certifying officers. According to Attachment A of GSA Temporary Regulation A-11 pages 14-15, meals each calendar day are itemized according to breakfast, lunch, and dinner. This section of the regulation seems to imply that this is the only acceptable method of itemization of subsistence expenses when an employee is authorized actual subsistence expenses. Yet, in GSA FPMR 101-7, paragraph 1-8.5 it is stated that the head of the agency shall prescribe the manner of itemization. The policy of the NLRB makes Mr. Frisch's voucher acceptable while it appears it is not acceptable according to GSA regulations.

"I would appreciate some clarification on this point to make claims under actual subsistence more

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uniform and thereby easier to examine and certify for payment."

Section 5702(c) of title 5, United States Code (Supp. V, 1975), provides that, in accordance with regulations prescribed by the Administrator of General Services, an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem is determined to be inadequate for travel to high rate geographical areas. The implementing regulations, which appear in the Federal Travel Regulations (FPMR 101-7) (May 1973) as amended, provide, in para. 1-8.1.b (FPMR Temp. Reg. A-11, issued June 27, 1975), that actual subsistence expense reimbursement shall normally be authorized or approved for temporary duty travel to a high rate geographical area (with certain exceptions within the discretion of the agency). The provisions in the FTR allow for reimbursement of the "actual and necessary" subsistence expenses. In addition, the FTR provides, in para. 1-1.3:

"a. Employee's obligation. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

"b. Reimbursable expenses. Traveling expenses which will be reimbursed are confined to those expenses essential to the transacting of the official business."

In E-186078, October 12, 1976, we reviewed the claim of an employee who, while on temporary duty in a high cost area, obtained lodgings at a monthly rate and apparently realized considerable savings. However, because she spent exorbitant amounts for meals, the employee submitted a claim for actual subsistence expenses at or near the maximum subsistence rates. We held that an employee is entitled to reimbursement only for reasonable expenses for meals since travelers are required to act prudently in incurring expense and that the employing agency shall determine what constitutes reasonable expenses for meals under the circumstances.

While Mr. Frisch's claim for lodging expenses appears to be reasonable, we concur in the agency's belief that his claim for meals appears questionable in the absence of any justification.

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Thus, the rule in B-186078, supra, is applicable and Mr. Frisch may be reimbursed only for the reasonable cost of food incurred during his temporary duty assignment in Washington.

With regard to the employing agency's duty to ascertain reasonable costs for meals, we stated in B-186078, supra:

"Where the agency has exercised that responsibility, our Office will not substitute our judgment for that of the agency absent evidence that the agency's determination was clearly erroneous, arbitrary, or capricious. At the same time we reserve the right and duty to make an independent determination as to the reasonableness of the expenses claimed. In the cases before us, we find that the employee's claims should be returned to the employing agency for a determination by that agency as to what constitutes a reasonable expense for meals and miscellaneous expenses. The determination should be made on the basis of the facts in this case with, perhaps, guidance from the experiences of other travelers to [that high cost/ area. \* \* \*

"As cited above, the FTR provides that employees traveling to high rate areas shall normally be authorized reimbursement for actual subsistence expenses, but, in the discretion of the agency, a fixed per diem rate may be authorized under certain conditions. FTR para. 1-8.1.b. \* \* \* Further, the employing agency should consider its authority under FTR para. 1-8.3.b which would allow the agency to issue written guidelines to serve as a basis for review of an employee's expenses. Such review would determine whether the expenses claimed are allowable subsistence expenses and were necessarily incurred. These guidelines, if brought to the employee's attention in advance, could provide guidance for employees who are able to obtain lodgings and/or meals at substantial savings but where a fixed per diem could not be established in advance of travel."

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Also, the determination of reasonableness of expenditures claimed as subsistence costs may be made (by the employing agency or our Office) by reference to statistics and other information gathered by Government agencies such as the U.S. Department of Labor, Bureau of Labor Statistics, regarding living costs in the relevant area. See 55 Comp. Gen. 1107 (1976).

Paragraph 1-8.5 of the FTR requires that the itemization of expenses by a traveler on an actual expense basis shall be made in a manner prescribed by the heads of agencies which will permit at least a review of the amounts spent daily for lodgings, meals, and all other items of subsistence expense. It is our opinion that, while the regulations may be satisfied by itemization of the meals on a daily basis, itemization of each meal, as illustrated in the attachment to the FTR as amended May 19, 1975, would afford an agency a better means of determining the reasonableness of claims for meals. However, in the instant case an administrative determination of the reasonableness of the meals may be made on the daily itemization of the meals since such itemization has been made in accordance with NLRB regulations. Cf. B-186826, October 28, 1976.

Action on the voucher, returned herewith, should be taken in accordance with the above.

  
Deputy Comptroller General  
of the United States