

00935  
52600

*J. Carter*  
*Ch. Pers*

**DECISION**



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

**FILE:** B-186761

**DATE:** April 5, 1977

**MATTER OF:** Gerald L. Modjeska - What constitutes "Temporary Quarters"

**DIGEST:** Transferred employee arranged in advance to rent former residence after date of closing on sale because temporary quarters, although available, were expensive and not convenient. Claim for temporary quarters subsistence expenses for period of continued occupancy of former residence may not be certified for payment since the residence at the old duty station was not vacated within the meaning of FTR para. 2-5.2c.

An authorized certifying officer of the Department of Labor has requested our determination of the propriety of payment of the claim of Mr. Gerald L. Modjeska for reimbursement for temporary quarters subsistence expenses incident to a transfer.

In January 1976, Mr. Modjeska was transferred by the Department of Labor from Round Lake, Illinois, to Deerfield, Wisconsin. Incident thereto, Mr. Modjeska placed his residence in Round Lake for sale and attempted to secure temporary living quarters at the new duty station. However, because of the large size of his family, nine members, Mr. Modjeska was unsuccessful in locating suitable temporary quarters in Deerfield and he elected therefore to rent his former residence from the purchaser until permanent quarters could be obtained at his new duty station. The contract for sale of Mr. Modjeska's former residence provides for continued occupancy by Mr. Modjeska and his family for up to 45 days from the date of settlement at a stipulated rental of \$23 per day. Mr. Modjeska's family remained in their former residence for 15 days after settlement for which period Mr. Modjeska is seeking reimbursement in the amount of \$425 for rent (\$345) and subsistence (\$80). The record shows that the closest available suitable temporary lodgings were in Madison, Wisconsin, the nearest city to Deerfield, where two motel rooms were available at a cost of \$24 per day. The certifying officer recommends that payment of Mr. Modjeska's claim be authorized.

B-186761

The reimbursement to employees of the expense of occupying temporary quarters incident to a transfer of duty station is governed by the provisions of part 2-5 of the Federal Travel Regulations (FTR), FPMR 101-7 (May 1973). The question here is whether Mr. Modjeska and his family may be considered to have "vacated the residence quarters in which they were residing at the time the transfer was authorized" as required by FTR para. 2-5.2c as a condition of entitlement to reimbursement for temporary quarters.

There is no precise definition of the term "vacate" in the travel regulations and each case must be considered on its own merits. 47 Comp. Gen. 84 (1967); B-181032, August 19, 1974. We generally consider a residence to be vacated when an employee and/or his family cease to occupy it for the purposes intended. B-185696, May 28, 1976. In evaluating such cases, we have consistently given great weight to the intent of the employee with respect to the location of permanent residence and the occupancy of temporary quarters. In those cases where there is evidence of action taken by the employee prior to and/or after departure from the former residence which support an inference that the employee intended to cease occupancy of that residence, we generally have authorized reimbursement. See, e.g. B-185696, supra, and cases cited therein. Conversely, we have not approved reimbursement for temporary quarters where such evidence is absent. B-162680, November 3, 1967; B-173217, July 13, 1971.

We are of the opinion that the record here will not support a conclusion that Mr. Modjeska intended to vacate his former residence at the date of sale. This is not a case where an employee has been forced by circumstances beyond his control, such as the breakdown of a moving van (B-181032, supra) or the unavailability of temporary quarters at either the old or new duty station (B-177965, March 27, 1973), to continue occupancy of his former residence. We note particularly that arrangements were made in advance for continued occupancy of Mr. Modjeska's former residence despite the availability of temporary quarters, although such quarters may have been less convenient. We view this evidence as supporting a conclusion contrary to that required to established entitlement to reimbursement.

B-186761

In these circumstances, we cannot authorize the reimbursement to Mr. Modjeska of the temporary quarters expenses claimed.

The voucher may not be certified for payment.

  
Acting Comptroller General  
of the United States