

DOCUMENT RESUME

02291 - [A1332310]

[Reconsideration of Reimbursement for Temporary Lodging at Family Residence]. B-186643. May 9, 1977. 3 pp.

Decision re: Fred Frishman; by Paul G. Dembling (for Elmer B. Staats, Comptroller General).

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organizations Concerned: Department of the Army: Army Research Office, Durham, NC.

Authority: 35 Comp. Gen. 554. B-187129 (1977). Bornhoft v. United States, 137 Ct. Cl. 134 (1956).

An employee requested reconsideration of his claim for reimbursement of lodging expenses incurred at his second home during temporary duty. Since costs were associated with private property, and not incurred by official travel, they did not qualify for reimbursement. (ETW)

Herbert Dunn
Civ. Pers.

DECISION



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

FILE: B-186643

DATE: May 9, 1977

**MATTER OF: Fred Frishman - Temporary lodging at family
residence - Reconsideration**

DIGEST: Employee was transferred from Arlington, Virginia, in area of Washington, D.C., but his family remained in area of Washington. After his transfer employee stayed at family residence while performing temporary duty. He may not be reimbursed lodging expenses based on average mortgage, utility, and maintenance expenses because such expenses are costs of acquisition of private property and are not incurred by reason of official travel or in addition to travel expenses.

This decision is in response to a request by Dr. Fred Frishman for reconsideration of our decision B-186643, October 28, 1976, which sustained the disallowance by our Claims Division of his claim for reimbursement of lodging expenses incurred in connection with temporary duty performed in Washington, D.C., during the period September 12-14, 1973 as an employee of the United States Army Research Office, Durham, North Carolina. The facts of this case were fully stated in our decision of October 28, 1976, and will not be repeated except as pertinent to the present discussion of the case.

The record indicates that Dr. Frishman claimed additional per diem reimbursement incident to his temporary duty and stated that lodging expenses were incurred by him as a result of his residing in his second home. Our decision of October 28, 1976, sustained the disallowance of his claim on the ground that it would be reasonable to ascribe a "no cost" factor to those nights an employee spends at his second home. Dr. Frishman requests reconsideration on the basis of our decision 35 Comp. Gen. 554 (1956) cited in our prior decision. His request states, in pertinent part, as follows:

"If I understand your remarks given in 35 Comp. Gen. 554 (1956), I believe my

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circumstance was identical. My position was moved from Arlington, Va. to Durham, N.C. on 1 April 1973 * * * and I physically moved on June 25, 1973 * * *. My family continued to reside in the Washington, D.C. area. I rented accommodations in Durham, N.C. from which I regularly commuted to my Durham position. While on TDY in the Washington area, I lodged with my family."

In Matter of Sanford O. Silver, B-187129, January 4, 1977, 56 Comp. Gen. ____, we considered whether a transferred employee could be reimbursed for lodging costs while staying in his former residence incident to a temporary duty assignment after he had reported to his new station. We held that he could not be reimbursed for lodging based on mortgage, utility, and maintenance expenses under the "lodgings-plus" system. We also stated that 35 Comp. Gen. 554 should no longer be followed with respect to travel occurring after October 10, 1971, the effective date of the "lodgings-plus" amendments of the Standardized Government Travel Regulations.

In Silver we pointed out that the pertinent controlling regulations in effect when 35 Comp. Gen. 554 was rendered provided for a flat per diem rate whereas the regulations after October 10, 1971, provide for the "lodgings-plus" system of computing allowable per diem. Under the latter system the traveler must actually incur expenses for lodging before he is entitled to an allowance. Also, under the rule in Börnhoft v. United States, 137 Ct. Cl. 134 (1956), the only lodging expenses incurred by a traveler which may properly be reimbursed are those which are incurred by reason of the travel and are in addition to the usual expenses of maintaining his residence. The claimant maintained a second residence at his former station for family reasons. The costs of purchasing and maintaining the residence were incurred by reason of his desire to maintain a second residence and not by virtue of his travel. Since the mortgage and maintenance payments would have been made irrespective of the travel, they were not properly for reimbursement.

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In view of the above and upon review, we find no basis that would warrant changing the conclusion reached in our decision of October 28, 1976.

Paul D. Leubling
For the Comptroller General
of the United States