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HARRIS
C.P.

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20543

FILE: B-188890

DATE: November 30, 1977

MATTER OF: David R. McVeigh - Temporary Quarters -
Subsistence Expenses

DIGEST: Employee who is transferred rents his residence to his parents for a 2-year period by oral lease. Employee returns on change of station and moves into his house with parents and claims temporary quarters allowance claiming that he paid his parents \$9 per day for the 30-day period. Statement by employee that at the end of the 30-day period when he could not find other quarters decided to make it his permanent residence is too indefinite to support a conclusion that his quarters were in fact temporary. Determination of whether employee's quarters at new duty station are temporary or permanent is question of intent. Employee must bear burden of providing convincing proof of intent.

This action is at the request of Mr. W. Smallets, Chief, Finance and Accounting Officer of the National Security Agency (NSA), Central Security Service, Fort George G. Meade, Maryland, whether a voucher in favor of Mr. David McVeigh an employee of the NSA, representing temporary quarters allowance in the amount of \$270 may be paid. The request was transmitted to our Office by the Per Diem, Travel and Transportation Allowance Committee of the Department of Defense, PDTATAC Control No. 77-15.

By Travel Order No. TP6G0029, dated April 20, 1976, Mr. McVeigh was transferred from Germany to Fort George G. Meade, Maryland. The travel order authorized temporary subsistence quarters for a period of 30 days. Following his return from Germany, Mr. McVeigh moved into a residence at 426 Arbor Drive, Glen Burnie, Maryland. The residence was owned by Mr. McVeigh and was being leased to his parents, under an oral agreement, for a period of 2 years ending November 1, 1976. From September 1 to September 30, 1976, Mr. McVeigh paid his parents \$9 a day for room and board.

Although Mr. McVeigh claims to have been looking for a new residence during this period, he has submitted no evidence of his efforts to purchase or rent a new home. In any event,

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it is not disputed that a new residence was not obtained and that Mr. McVeigh has continuously resided at 426 Arbor Drive, Glen Burnie, Maryland, since September 1, 1976.

Paragraph C13000 of the Joint Travel Regulations, Volume 2, states in pertinent part that:

"When it is necessary to occupy temporary quarters incident to the employee's transfer to a new duty station, temporary quarters subsistence expenses will be authorized, or approved subject to the conditions of this Chapter, for the purpose of defraying the expenses of the employee and his dependents. Temporary quarters refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee and/or his dependents who have vacated the residence quarters in which they were residing at the time the transfer was authorized. Temporary quarters must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station location which factually are permanent type residence quarters into which an employee moves his household goods and continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. * * *" (Emphasis added.)

Our decisions pursuant to this regulation hold that 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 initially (for the first 30 days) temporary is based on the intent of the employee at the time he moves into the lodgings. See Charles L. Avery, B-179870, September 26, 1974, and cases cited therein. Although Mr. McVeigh claims that his intent was to obtain a permanent residence elsewhere, his failure to produce any evidence to support this contention strongly mitigates against allowance of his request for reimbursement. We believe that under such circumstances,

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the employee requesting reimbursement must bear the burden of providing convincing evidence of his intent.

Mr. McWeigh further claims that by staying with his parents during weeks prior to the expiration of their lease, the Government saved "over \$2,500 in hotel bills." It is well established, however, that potential or actual savings to the Government is immaterial to a determination of whether an employee's residence is temporary or permanent. See B-177546, February 8, 1973.

Accordingly, the voucher may not be paid.


Deputy Comptroller General
of the United States