

6464

John G. Mitchell  
Civ. Pers.

**DECISION**



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

**FILE: B-189623**

**DATE: May 19, 1978**

**MATTER OF: Burney P. C. Boote -  
Actual subsistence expense**

- DIGEST:**
- 1. Employee may not be reimbursed expenses claimed for apartment rental and utility and cleaning costs incurred in connection with prolonged temporary duty, since apartment is shared with her husband at his official duty station.**
  - 2. Claims for dinners by an employee authorized actual subsistence expenses which are repetitive in amount and are the maximum amount which may be claimed without a receipt under departmental regulations do not conform to the requirements of para. 1-8.5 of the Federal Travel Regulations. Accordingly, claims may not be certified for payment, unless a determination is made by the employing agency that in the circumstances the amounts claimed are reasonable.**

This action is in response to a request for advance decision from Ms. Ellen W. Cummings, a supervisor, Travel Subunit, Financial Management Staff, of the Department of Justice, as to whether the travel vouchers of Mrs. Burney P. C. Boote, an employee of the Antitrust Division, Department of Justice, on temporary duty in New York, may be certified for payment.

It is stated that Mrs. Boote is on prolonged temporary duty in New York City and that her vouchers show her official duty station to be Washington, D. C. Checks and receipts which support her claim for lodging, which is an apartment rental, indicate that this apartment is shared with her husband, Richard Boote, who is also an employee of the Antitrust Division with an official duty station of New York City. Mrs. Boote is claiming the entire expense of the apartment rental along with telephone, utility, and maid service charges to arrive at her daily lodgings costs. It is stated that

B-189623

receipts for the telephone and utility charges are in the name Richard Boote and R. H. Boote. The copies of the telephone and electric bills forwarded to our Office with the submission are in the name of Mr. Richard Boote or R. H. Boote. The address to which these bills were sent was 161 W 13th St., 3 FL, New York City, New York 10011. The checks on which these bills were paid have printed on the top the names of Burney P. C. Boote, Richard H. Boote, 161 West 13th St., New York, N.Y. 10011. This would indicate that such address was the permanent address of Richard H. Boote with whom Mrs. Burney P. C. Boote was staying while performing temporary duty in New York City.

It is also indicated that Mrs. Boote's claims for dinners are being questioned since they appear in some instances to be repetitious in the amount claimed so as to bring her expenses to the maximum actual subsistence authorized for the period in which they are claimed.

The specific question submitted is whether Mrs. Boote is entitled to lodging and subsistence expenses, as it appears she is sharing an apartment with her husband whose official duty station is New York City, and if so, in what amount.

On the basis of the information provided it would appear that Mrs. Boote did in fact share an apartment with her husband in New York City during the period of her temporary duty. Since New York City is the official station of Richard H. Boote and the utility bills were sent in his name we must assume that this was his residence.

Ordinarily, the expense of renting an apartment in connection with an employee's prolonged temporary duty away from his official station is reimbursable when an employee is authorized either a per diem or actual subsistence expenses. However, the expense of renting an apartment must be actual and necessary and be a direct result of the employee's temporary duty assignment. When the reason for incurring the expense is not related to the temporary duty assignment then it is not reimbursable.

In this regard, we held in our decision 55 Comp. Gen. 856 (1976) that the claimant could not be paid a per diem allowance based on the \$14 daily amount paid for lodgings in noncommercial lodgings

B-189623

provided by friends or relatives in the absence of a showing that the amount claimed was reasonable and based on additional expenses incurred by the host as a result of the employee's stay. That decision adopted for purposes of application to per diem claims the principles established by 52 Comp. Gen. 78 (1972) for temporary quarters subsistence expenses claimed for lodgings provided by friends or relatives. While recognizing that charges for temporary quarters supplied by friends or relatives may be reimbursed where reasonable in amount, 52 Comp. Gen. 78 defines the requirement of reasonableness in terms of an amount "considerably less than motel charges" and requires a correlation between the amount paid by the employee for such noncommercial lodgings and the additional costs actually incurred by the host to provide such lodgings.

The same rationale we believe is applicable to Mrs. Boote's claim. In other words, amounts reimbursable for lodging with friends or relatives must be reasonable and must reflect additional expenses incurred by the host as a result of the employee's stay.

It has been informally ascertained that Mrs. Boote was on temporary duty in New York from 1975 to some time in August 1977 when she received a permanent change of station there. During this time Mrs. Boote never returned to Washington, D. C., with the exception of 3 days when she did not stay overnight but returned each day to New York City. It has not been determined whether she retained her residence in Washington, D. C. If she did not and it is determined that her New York address was her residence during this time there would be for consideration paragraph 1-7.3c(1)(a) of the Federal Travel Regulations (FTR) which provides that there should be excluded from the computation the nights the employee spends at his residence or official duty station.

Accordingly, those portions of the vouchers relating to the apartment rental and attendant costs such as telephone, utility, and cleaning charges may not be certified for payment.

The second question presented relates to the fact that amounts claimed for dinners by Mrs. Boote appear in some instances to be repetitious as to the amount claimed in order to bring her to the maximum actual subsistence allowed for that particular period.

Mrs. Boote claimed the same amount for dinner on numerous occasions. An internal memorandum in the Department of Justice responding to a question raised concerning the repetition of the

B-189623

amount \$9.99 claimed for dinner, states that Mrs. Boote frequently worked long hours and that due to the considerable costs of dining out in Manhattan generally incurred costs for dinner in excess of \$10. However, at the time she incurred the costs she was not aware of the Department of Justice requirement that receipts for dinners in excess of \$10 be provided. As a result she did not have receipts and therefore claimed the maximum she could without providing a receipt.

Paragraph 1-8.5 of the FTR requires the itemization of expenses by a traveler on an actual expense basis to 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. If the agency determines that it would better permit a review of the amounts spent for meals by requiring a receipt for meals over \$10 such requirement would come within the provisions of paragraph 1-8.5 of the FTR and claims for meals in excess of \$10 without a receipt would be for disallowance.

Obviously, the amount of \$9.99 is a contrived figure, and ordinarily would not be considered a valid itemization of expenses under paragraph 1-8.5. However, since it appears that she would have claimed amounts in excess of \$9.99, but for the fact that she did not secure receipts for the dinners, it is our view that the matter must be determined on the basis of the reasonableness of the expenses claimed. In this regard, we have held that the question of what constitutes reasonable expense for meals in the circumstances, is for determination by the employing agency. See B-186740, March 5, 1977, and B-186087, October 12, 1976.

Accordingly, certification for payment of the amounts claimed for the dinners questioned may not be made unless a determination is made by the proper official in the Department of Justice that these amounts are reasonable.

  
Deputy Comptroller General  
of the United States