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DECISION



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

FILE: B-189489

DATE: June 7, 1978

MATTER OF: Charles J. Klee -  
Relocation expenses

- DIGEST:
1. Employee's travel orders did not authorize temporary quarters allowance since there was understanding employee would arrange, if possible, relocation of his family to eliminate need for allowance. When need arose employee applied for 6 days temporary quarters and agency approved request. It also approved additional 4 days retroactively since relocation travel took less time than estimated and employee's household goods had not arrived. Under circumstances allowance is permissible provided it is in accord with agency policy.
  2. Employee is not entitled to per diem for period he traveled with his family to his new station because he had already performed his travel there. He is entitled to temporary quarters allowance for this period since it had been authorized and motels in which he stayed come within definition of temporary quarters in paragraph 2-5.2c of Federal Travel Regulations. Rate of per diem for his wife for this travel is the full rate.
  3. Employee's older daughter remained at employee's old station with employee's younger daughter until younger daughter graduated from high school, several weeks after other members of family traveled to employee's new station. Temporary quarters allowance for whole family for 10 days had been authorized, as had use of 3 privately owned automobiles for travel. Temporary quarters for older daughter is payable for 10 days authorized, and mileage rate for the daughters' subsequent travel by privately owned automobile to the new station should be the rate for 2 passengers.

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4. Employee was authorized temporary quarters allowance incident to transfer of station. Certifying officer questions reasonableness of cost of meals for which reimbursement is claimed. Record does not indicate whether employee and family ate in restaurants or bought groceries and prepared meals. Agency should obtain more information and determine reasonableness of expenses on basis of information received.

This action results from a letter dated June 24, 1977, from B. B. Hensley, a certifying officer for the Energy Research and Development Administration (ERDA), requesting our decision on several questions regarding the entitlement of Mr. Charles J. Klee, an employee of ERDA, to certain relocation allowances.

Mr. Klee, while stationed in Los Alamos, New Mexico, was issued permanent change of station orders dated September 20, 1976, transferring him to Portsmouth, Ohio. The orders show a transfer date of October 10, 1976, a reporting date of October 12, 1976, with approximately 90 days temporary duty en route at Oak Ridge, Tennessee. We assume that the conflicting statements in the orders were intended to reflect an administrative intention to transfer Mr. Klee to the jurisdiction of the Portsmouth ERDA office since the record indicates that the temporary duty was initiated by that office. The orders also authorized the use of 3 privately owned vehicles for the travel to Portsmouth.

Mr. Klee drove in a privately owned vehicle from Los Alamos to Oak Ridge during the period of October 11-13, 1976. He performed temporary duty there until December 11, 1976, on which day he drove to Portsmouth. On December 10, 1976, Mr. Klee requested 6 days of temporary quarters to be used during the period of December 13-24, 1976. Only 6 days were requested since Mr. Klee estimated his family would spend 5 days traveling to Portsmouth. He also requested transportation for himself from Oak Ridge to Portsmouth. The temporary quarters were approved on December 21, 1976. His return transportation was disapproved since he had already reported at Portsmouth.

Mr. Klee returned to Los Alamos to help his family move. They apparently moved out of their home and into temporary quarters

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at Los Alamos on December 14, 1976. On December 19, 1976, Mr. Klee, his wife and 3 sons commenced travel to Portsmouth by privately owned automobile. They arrived there on December 21, 1976. They stayed in temporary quarters through December 22, 1976, and moved into their new house on December 23, 1976. Mr. Klee's two daughters, Kathy, age 19, and Cynthia, age 17, remained in temporary quarters in Los Alamos during this period because Cynthia would complete high school there in January 1977.

On January 12, 1977, Mr. Klee was retroactively granted, pursuant to his request of January 4, 1977, an additional 4 days of temporary quarters for his family and himself, for the period of December 14-23, 1976. The letter authorizing the additional days stated that the Klees were authorized reimbursement of temporary quarters subsistence expenses incurred " \* \* \* in separate locations as required \* \* \* ."

During the period of January 16-18, 1977, Cynthia and Kathy Klee drove by privately owned automobile from Los Alamos to Portsmouth.

The certifying officer's questions regarding Mr. Klee's relocation expenses incident to his change of station are answered as follows.

Question 1. "Could an additional four days be authorized retroactively because the family didn't take as long to travel as allowable plus the fact the household goods were not moved into the new residence until December 23?"

The record indicates that the original travel orders were based on an understanding between Mr. Klee and ERDA and would, as far as possible, coincide with the expected availability of a new residence in Portsmouth which would eliminate the need for authorization of temporary quarters subsistence allowances. When that date was moved forward Mr. Klee requested a minimum allowance of 6 days which was granted. When the relocation travel was shorter than expected and Mr. Klee's household goods did not arrive at his new station, he requested an additional allowance of 4 days which was retroactively approved. Under the circumstances we will not object to the retroactive authorization, provided the authorization is in accord with agency policy. See: B-186549, March 7, 1977; and B-173113, July 26, 1971.

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Question 2. "Could Mr. Klee be paid temporary quarters during the three days he traveled with his family? It doesn't appear that these expenses could be considered as incident to occupancy of temporary quarters."

Paragraph 2-5.2 of the Federal Travel Regulations (FMPR 101-7, May 1973) states in pertinent part:

"a. \* \* \* Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family \* \* \* shall be allowed for a period of not more than 30 consecutive days while the employee and his family necessarily occupy temporary quarters \* \* \*.

"c. \* \* \* The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized." (Emphasis added.)

Paragraph 2-5.4a of the Federal Travel Regulations states in pertinent part:

"Reimbursement shall be only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable as to amount."

The motels in which Mr. Klee stayed with the members of his family during the period he traveled with them come within the preceding definition of temporary quarters. Accordingly, he may be paid a temporary quarters allowance for his subsistence expenses incurred during this period, which are otherwise reimbursable. The fact that Mr. Klee could not be paid per diem during this period because he had already completed his relocation travel does not affect his entitlement to reimbursement for necessarily occupying temporary quarters incident to his transfer. Also, our decisions have not restricted entitlement to a temporary quarters allowance to instances where the temporary quarters were located either at the employee's old or new official stations. B-184137, December 29, 1975; B-178790,

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August 1, 1973. Moreover, Mr. Klee's occupancy of temporary quarters was related to his transfer and was not due solely to personal business. B-175594, May 31, 1972. In view of the above circumstances and since his household goods had not arrived at his new station, Mr. Klee necessarily occupied temporary quarters and is entitled to the allowance for the days claimed.

Question 3. "Since Cindy Klee was the only family member that needed to stay at the old station to finish her school term, could temporary quarters be paid for Kathy Klee (for ten days) to stay behind to accompany her sister?"

We do not object to the payment of a temporary quarters allowance for 10 days for Kathy Klee. Mr. Klee was authorized 10 days of temporary quarters for his family "in separate locations as required". It was not unreasonable, in our view, for Kathy Klee to remain in Los Alamos with her 17-year-old sister. We think that Kathy Klee was necessarily occupying temporary quarters for the period in question within the meaning of paragraph 2-5.2a of the Federal Travel Regulations quoted above. It is not necessary that there be no alternative to the occupancy of temporary quarters before an employee is entitled to temporary quarters subsistence allowance. B-184024, January 21, 1976.

Question 4. "Should the mileage rate for the third car be \$.08 since Kathy could have accompanied the other family members in the second car?"

We are not aware of any statutory or regulatory provision directing the number of family members who should travel in each automobile authorized for change of station travel. However, paragraph 2-2.3e(2) of the Federal Travel Regulations states:

"In those instances where more than one automobile is authorized under 2-2.3e(1), the allowances under 2-2.3b, c, and d apply for each automobile and the occupants thereof."

The Klees were authorized 3 automobiles for the travel in question, and paragraph 2-2.3b provides that if 2 members of the employee's immediate family travel in one automobile mileage is to be paid at the rate of \$.08 a mile. Furthermore, it appears that there were,

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without Kathy Klee, 5 people in one automobile for the travel performed by the Klees during the period of December 19-21, 1976. Moreover, in our view, it was reasonable for Kathy Klee to drive with Cynthia since the distance involved was over 1,570 miles, the trip took 3 days, and Cynthia was only 17 years old.

Under the circumstances, we see no reason for not allowing mileage at the 2-passenger rate for the travel performed by the Klee sisters.

Question 5. "Meals for the family, Mr. Klee, spouse, daughters aged 19, and 17-1/2, and sons aged 14, 12 and 10 were:

12-14	\$ 97.75	(7)	Los Alamos
12-15	94.50	(7)	Los Alamos
12-16	100.25	(7)	Los Alamos
12-17	103.25	(7)	Los Alamos
12-18	91.75	(7)	Los Alamos
12-19	46.75	(3)	Two daughters-Los Alamos. Mr. Klee-en route travel with family
12-20	47.75	(3)	Two daughters-Los Alamos. Mr. Klee-en route travel with family
12-21	44.75	(3)	Two daughters-Los Alamos. Mr. Klee-en route travel with family
12-22	94.75	(7)	Five in Portsmouth, OH. Two in Los Alamos, NM
12-23	89.25	(7)	Five in Portsmouth, OH. Two in Los Alamos, NM

"I doubt that approximately \$100 per day for meals for a family of seven while in Los Alamos, New Mexico, and Portsmouth, Ohio, should be considered 'reasonable' as intended in paragraph 2-5.4a of the Federal Travel Regulations. At that rate the family would require approximately \$36,000 per year for food. Your decision

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is requested as to the reasonableness of these charges.  
(Ref. B-185948 dated May 12, 1976)."

Paragraph 2-5.4a of the Federal Travel Regulations provides that reimbursement of expenses for meals incurred while occupying temporary quarters is to be made to the extent that such expenses are reasonable. The expenses for meals claimed by Mr. Klee would not be reasonable if they bought groceries and prepared the meals. However, since they stayed in motels during the period for which temporary quarters is claimed, it seems probable that their meals were eaten in restaurants. If that was the case, the costs for meals claimed by the Klees do not appear unreasonable. However, there is nothing in the documents submitted to indicate where the meals were eaten. Also, it is the employing agency's responsibility to determine reasonableness of subsistence expenses in the first instance. B-187419, June 1, 1977; B-183583, February 2, 1976. Accordingly, ERDA should obtain more information from Mr. Klee regarding this matter and make this determination on the basis of the specific information furnished.

Question 6. "If you determine that Mr. Klee was in fact occupying temporary quarters while traveling with his wife and three sons, the following questions are posed:

- "1. Would the spouse be paid 3/4 of the per diem rate that Mr. Klee would get if he were traveling on permanent change of station? or
- "2. Would she get full per diem as though she traveled alone with the children?"

Paragraph 2-2.2b(i) of the Federal Travel Regulations provides in pertinent part:

"(a) \* \* \* When the spouse accompanies the employee who is traveling under 2-2.1, the spouse is authorized three-fourths of the per diem rate to which the employee is entitled. \* \* \*

"(b) \* \* \* When the spouse is not accompanying the employee while he is traveling under 2-2.1, the

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spouse is authorized the per diem rate to which the employee is entitled under 2-2.1. \* \* \* (Emphasis added.)

Paragraph 2-2.1 provides that per diem is payable to an employee when traveling in accordance with certain statutory and regulatory provisions. Mr. Klee was not entitled to per diem for his travel with his wife and sons from Los Alamos to Portsmouth since his authorized travel to Portsmouth had been performed previously. Accordingly, he was not traveling under paragraph 2-2.1. Thus, the proper rate of per diem for Mrs. Klee is the full rate. In that regard, in computing the temporary quarters allowance, Mr. Klee is entitled to reimbursement for only the additional subsistence costs incurred by reason of his accompanying his dependents.

  
Acting Comptroller General  
of the United States