

7359
DECISION



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

FILE: B-190554

DATE: August 14, 1973

MATTER OF: Roy C. Hitchcock -- Claim for Temporary
Quarters and Real Estate Expenses

- DIGEST:
1. Employee, who transferred to new duty station, returned to family residence at old duty station on weekends. Where the return trips were not attributable to "official necessity" under the Federal Travel Regulations (FPMR 101-7) (May 1973), para. 2-5.2a, the period for claiming temporary quarters continues to run 30 consecutive days without interruption.
 2. Employee, who transferred to new duty station, performed temporary duty at old duty station. Period for claiming temporary quarters may be interrupted for periods of temporary duty, but, since temporary quarters may be reimbursed only in increments of calendar days, occupancy of temporary quarters for even less than a full day constitutes one of the 30 calendar days. 56 Comp. Gen. 15 (1976). Computation of 30-day period would depend upon when employee departed on temporary duty, when he returned, and which days he has claimed temporary quarters. 47 Comp. Gen. 322 (1967) modified.
 3. Employee, who transferred to new duty station, claims reimbursement for payment of seller's mortgage interest due to delay in settlement on residence at new duty station. Despite employee's contention that delay was due, in part, to his performing temporary duty away from the new duty station, claim is not allowable as miscellaneous expense or incidental charge customarily paid in the area under Federal Travel Regulations (FPMR 101-7) (May 1973), paras. 2-5.2d and 2-5.2f.

This action is in response to a request for an advance decision from Mr. H. Larry Jordan, an authorized certifying officer of the Department of Agriculture, reference FI-2, HLJ, concerning the claims of Mr. Roy C. Hitchcock, an Agriculture employee, for reimbursement for temporary quarters subsistence expenses and certain real estate expenses.

B-190554

Mr. Hitchcock was transferred from Cook, Minnesota, to Duluth, Minnesota, effective June 28, 1976, and he was authorized reimbursement for certain relocation expenses including temporary quarters and real estate expenses. Mr. Hitchcock claimed reimbursement for temporary quarters for the period from June 28 through August 11, 1976, a period in which there were several occasions when he returned to his family's residence in Cook for the weekend or for periods of temporary duty in the vicinity of Cook. The administrative office held that Mr. Hitchcock's return trips to his home on weekends did not constitute a valid break in the period of temporary quarters and disallowed that part of his claim (\$92.26) which was in excess of the 30-day limit for temporary quarters contained in the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973), para. 2-5.2a.

Mr. Hitchcock has submitted a reclaim voucher for the amount disallowed contending that since he began his temporary duty Monday morning in Cook he should be considered to be in a temporary duty status from the time of his departure from Duluth on Friday until his return to Duluth even though no per diem or subsistence was claimed for the weekend. The administrative report states that Mr. Hitchcock could have traveled the distance of 92 miles from Duluth to Cook on Monday morning to perform temporary duty, and the report concludes, "(t)herefore, it appears that departure on Friday evening could only be viewed as having been performed for Mr. Hitchcock's personal convenience and not out of official necessity."

Mr. Hitchcock has also filed an additional claim for temporary quarters in the amount of \$141.53 which represents his total expenses for temporary quarters during his transfer. Mr. Hitchcock argues that the intent of the regulation governing temporary quarters is to reimburse all reasonable subsistence expenses incurred by an employee and his family and that the amount he claims is less than what he could have claimed for temporary quarters for himself and his family. Finally, Mr. Hitchcock seeks reimbursement in the amount of \$92.19 for interest which he paid to the seller of his new residence in Duluth for the period of time between the date he occupied the residence and the date of

B-190554

settlement. Mr. Hitchcock contends that settlement on the new residence was delayed for the most part due to temporary duty which he performed away from his new duty station. This claim was denied by the administrative office as not reimbursable under the Federal Travel Regulations.

The statutory authority for reimbursement of subsistence expenses while occupying temporary quarters is contained in 5 U.S.C. § 5724a(a)(3) (1976) which provides that, under regulations prescribed by the President, such expenses may be paid "for a period of 30 days." The applicable regulation concerning the time limitation on reimbursement for temporary quarters is contained in FTR para. 2-5.2a and provides, in pertinent part, as follows:

"Length of time allowed and location of new official station. Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family (defined in 2-1.4d) shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters * * *. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations or for circumstances attributable to official necessity, as for example, an intervening temporary duty assignment* * *."

In accordance with the provisions of the regulation, our Office has drawn a distinction between interruptions in the period for occupancy of temporary quarters that are the result of an employee's obligation to the Government (official necessity) and interruptions that are for personal reasons. See Beverly J. Nordquist, B-185338, February 19, 1976, and decisions cited therein. Where an employee is called away from his new duty station for reasons of official necessity such as the performance of temporary duty or military training, the 30-day period may be interrupted. See Nordquist, supra; and B-181482, February 18, 1975. However, in the present case it appears that Mr. Hitchcock's weekend trips to Cook were

B-190554

not for reasons of official necessity but were for personal reasons, and such absences from the new duty station do not interrupt the 30-day period for temporary quarters.

Mr. Hitchcock did perform some temporary duty away from his new duty station, and the agency questions how the 30-day period of temporary quarters should be computed in light of our decision in Joseph B. Stepan, 56 Comp. Gen. 15 (1976). In Stepan we held that since the statute allows reimbursement for temporary quarters only in increments of calendar days, occupancy of temporary quarters even for less than a full day constitutes 1 of the 30 calendar days during which such expenses may be paid. The computation of the 30-day period in the present case would therefore depend upon when Mr. Hitchcock left his temporary quarters to perform temporary duty, when he returned, and for which days he has claimed temporary quarters subsistence reimbursement.

In determining which day the period of temporary quarters is to resume following an interruption for reasons of official necessity, we must consider FTR para. 2-5.2g which provides as follows:

"Effect of partial days. In determining the eligibility period for temporary quarters, subsistence expense reimbursement and in computing maximum reimbursement when the occupancy of such quarters for reimbursement purposes occurs in the same day that en route travel per diem terminates, the period shall be computed beginning with the calendar day quarter after the last calendar day quarter for which travel per diem described in 2-2.1 and 2-2.2 is paid, except that when travel calendar day quarter during which travel per diem terminates. In all other cases, the period shall be computed from the beginning of the calendar day quarter for which temporary quarters subsistence reimbursement is claimed, provided that temporary quarters are occupied in that calendar day. The temporary quarters period shall be continued for the day during which occupancy of permanent quarters begins."

B-190554

Since Mr. Hitchcock's return travel from temporary duty is not considered to be "en route travel", the second sentence in the above-cited regulation would be applicable, and the period for computing temporary quarters would resume either the day the employee returns from temporary duty or the following calendar day, depending upon when the employee claimed reimbursement for temporary quarters. Mr. Hitchcock has claimed reimbursement for temporary quarters on the days he returned from temporary duty, and, therefore, the agency has correctly computed these days in the 30-day period.

The above-cited regulation does not directly address the question of when the 30-day period is to be interrupted by the employee's departure from his new duty station for reasons of official necessity. However, consistent with the rule governing the employee's return from temporary duty, we believe the day of departure from the new duty station may be excluded from the 30-day period if the employee chooses to not claim temporary quarters on that calendar day.

In the present case, the agency has determined that Mr. Hitchcock's absence from his new duty station during the weekend was for personal reasons and that, but for that absence, he could have departed to his new duty station Monday morning in order to travel to his temporary duty assignment. Since Mr. Hitchcock has not claimed temporary quarters for the days the agency has determined he would have departed on temporary duty, those days are not counted in the 30-day period, and the agency should correct its computation. We would point out that interruptions in the 30-day period for temporary quarters for reasons of official necessity must be computed in the manner set forth above. 47 Comp. Gen. 322 (1967) modified.

Mr. Hitchcock contends that the intent of the regulations is to reimburse all reasonable expenses incurred prior to the occupancy of permanent quarters at the new duty station. In addition, he states that his claim for temporary quarters is less than the amount he could have claimed for temporary quarters for himself and his family. However, reimbursement for temporary quarters subsistence expenses may only be allowed to the extent provided under the applicable statute and regulation. Where the interruption in the occupancy of temporary quarters is not attributable to reasons of official necessity, the 30-day period is not interrupted and there is no basis for payment for temporary quarters beyond the 30-day

B-190554

limit. The fact that Mr. Hitchcock could have claimed greater temporary quarters subsistence expenses if his family had accompanied him to the new duty station has no effect on his entitlement as outlined above. Since Mr. Hitchcock elected, for reasons of his own, not to bring his family to the new duty station until a later date, there is no authority to reimburse him for temporary quarters subsistence expenses beyond that provided by statute and regulation for an employee traveling without his family.

Finally, Mr. Hitchcock seeks reimbursement for an interest payment he incurred as a result of a delay in the settlement on the residence at the new duty station. Mr. Hitchcock contends that the delay in settlement was due, in part, to his assignment to temporary duty away from his new duty station for a period of 2 weeks.

The types of expenses which are allowable in connection with a residence transaction are specified in FTR chapter 2, Part 6, but the payment of interest as described in the present case does not appear allowable as either a miscellaneous expense or an incidental charge customarily paid in the locality of the residence. FTR paras. 2-5.2d and 2-5.2f. We concur with the administrative determination that this claim may not be paid.

Accordingly, the voucher may be certified for payment in accordance with the discussion above.


Deputy Comptroller General
of the United States