

DECISION



D. Aguirre
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20540

8229

FILE: B-191492

DATE: November 2, 1978

MATTER OF: Silas H. Henard, Jr. - Per Diem - Detail to
Former Permanent Duty Station

DIGEST: Employee was advised by memorandum of his transfer to a new duty station. Due to short notice he was "detailed" to former duty station pending his reporting to new station. He became ill at permanent duty station and claims 168 days per diem during his illness which prevented his reporting to new duty station. Claim may not be allowed as paras. 1-7.6 and 2-1.4 of FTR, when construed together, constitute requirement that employee must actually report to new duty station before it is regarded as permanent duty station so as to entitle employee to per diem at former duty station. 54 Comp. Gen. 679 (1975) distinguished.

This matter concerns the request for an advance decision by Ms. Elenor E. Clements, an authorized certifying officer of the Department of Health, Education and Welfare, Public Health Service, Indian Health Service (Service), as to whether Mr. Silas H. Henard, Jr., an employee of the Service, may be allowed per diem in connection with an extended illness while on "detail" at his former permanent duty station.

The record shows that Mr. Henard was employed as Executive Officer of the Service's, Oklahoma City area office. On June 3, 1977, Mr. Henard received a memorandum from the Deputy Director of the Service stating that effective June 5, 1977, Mr. Henard would be promoted to the position of Aberdeen area Executive Officer in Aberdeen, South Dakota. Mr. Henard was advised that due to the short notice involved, he would be placed on detail to the Oklahoma area office effective June 5, 1977, and that he would be required to report for his new duty assignment in Aberdeen, South Dakota, on July 18, 1977. The Deputy Director stated that his June 3 memorandum was in response to a memorandum dated June 2, 1977, in which Mr. Henard stated that at the time he was unable to either accept or reject his proposed reassignment to the Aberdeen area office.

On June 7, 1977, Mr. Henard was issued a general Travel Order No. HSM-114467, which authorized him travel expenses and per diem on a lodgings-plus basis for temporary duty travel for

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the period June 7, 1977, through September 30, 1977. The travel order designated Aberdeen, South Dakota, as his official duty station. Mr. Henard states that while he was on detail in the Oklahoma City area office, Oklahoma City, Oklahoma, he became ill and was on extended sick leave and was unable to report to his permanent duty station until November 21, 1977. He contends that in view of the June 3, 1977 memorandum from the Deputy Director advising him that he was on "detail" in the Oklahoma area office, he was on temporary duty assignment in Oklahoma City at the time he became ill and that accordingly, he believes he is entitled to the payment of per diem during the period of his illness. Mr. Henard has claimed per diem for the period June 5, 1977, through November 19, 1977, at the maximum rate of \$35 per day for a total amount claimed of \$5,880.

Under para. 1-7.6a of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973), per diem in lieu of subsistence may not be allowed at an employee's permanent duty station. In addition, under FTR para. 2-1.4j the effective date of a transfer from one duty station to another is the date on which the employee reports for duty at the new station. These two provisions when construed together in effect constitute a requirement that an employee must actually report for duty at his new duty station before it is regarded as the permanent duty station so as to entitle him to per diem at the former duty station. 54 Comp. Gen. 679 (1975).

An exception to the general rule prohibiting per diem at the employee's permanent duty station may arise under exceptional circumstances as when an individual, for whom a permanent change of station has been authorized, significantly changes his position, such as vacating his residence at his former duty station and entering into a real estate contract at his new duty station, in order to establish residence at his new duty station and then is ordered to temporary duty at the place of his previous residence. See 54 Comp. Gen. 679, supra.

The facts before us do not establish that Mr. Henard significantly changed his position based on the June 3, 1977 memorandum advising him of his reassignment so as to bring his claim within the exceptional circumstances rule. We note that the record indicates that as of June 2, 1977, just 3 days before the

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commencement of the period for which per diem is claimed, Mr. Henard was still uncertain as to whether he could accept the reassignment to Aberdeen, South Dakota.

Since Mr. Henard was unable to report to his new duty station in Aberdeen, South Dakota, until November 21, 1977, Oklahoma City remained Mr. Henard's permanent duty station during the period of the claim and there is no basis, in the record before us, to allow Mr. Henard per diem while at his permanent duty station.

In accordance with the above, Mr. Henard's voucher in the amount of \$1,880 for the payment of per diem may not be certified for payment.


Deputy Comptroller General
of the United States