

DECISION

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

8275

FILE: B-191559

DATE: November 8, 1978

MATTER OF: Gary L. Hutchison - "Lodgings-plus" per diem
when commercial lodging unavailable

DIGEST: EPA employee may not be paid per diem based on hypothetical cost of commercial lodgings for second night in travel status. While lodgings were unavailable because of severe snow conditions, preventing return to home station, and employee was forced to spend night in airport awaiting next available flight, controlling FTR para. 1-7.3(c)(1) requires computation of per diem on average amount traveler pays for lodgings as a base for the "lodgings-plus" system. See, also, Bornhoft v. United States, 137 Ct. Cl. 134 (1956).

This action is in response to a request dated March 21, 1978, from Mr. Ivars P. Antens, Chief, Financial Management Branch, Environmental Protection Agency (EPA), Region V, Chicago, Illinois, for a decision concerning a voucher submitted by Mr. Gary L. Hutchison for per diem in lieu of actual subsistence while on a temporary duty assignment.

It is stated that Mr. Hutchison, an EPA employee, traveled on official business to Cleveland, Ohio, had lodgings at Cleveland for one night; however, he was forced to stay at the Cleveland airport for one more night due to heavy snow, and cancellation of flights. In this respect, the record shows that Mr. Hutchison, under travel authorization dated November 23, 1977, as amended, was to travel December 5 to 6, 1977, from Chicago (official station) to Painesville, Ohio, and return, with a per diem allowance (\$16) plus the average cost of lodging being authorized.

It is further stated that the regional certifying officer certified payment of per diem to Mr. Hutchison based on the average cost of lodgings, that is, \$16 paid by the employee on the first night of travel (December 5), plus \$0 for the second night (December 6--lodging unavailable), divided by 2 to yield an average cost of \$9 for lodging for the two nights involved. Added to this average cost of lodging was \$16 allowance for meals and miscellaneous expenses to yield a per diem allowance of \$25, payable for 2-1/4 days (\$56.26). The EPA Financial Management Division concurred with the certifying officer's position on this allowance. However, the employee apparently feels that his per diem should not be "decreased" because

B-191559

he was unable to secure commercial lodgings on the evening of December 6, because of snowstorm conditions. He apparently disagrees with the averaging out of his lodging cost over two nights, since his inability to secure commercial lodgings the second night was due to conditions beyond his control, and he would have returned to his permanent station if all flights had not been cancelled.

Section 5702 of title 5, United States Code, as amended by Public Law 94-22, May 19, 1975, provides that under regulations prescribed by the Administrator of General Services, employees traveling on official business inside the continental United States are entitled to a per diem allowance at a rate not to exceed \$35. Implementing regulations appear in the Federal Travel Regulations (FTR) (FPMR 101-7). The current paragraph 1-7.3c(1) of the FTR, which was in force at the time the travel was performed, provides that when lodgings are required, per diem shall be established on the basis of the average amount the traveler pays for lodging, plus an allowance of \$16 for meals and miscellaneous expenses. This is also known as the "lodgings-plus" system of computing allowable per diem.

In line with the foregoing, paragraph 1-7.3c(1)(a) of the FTR, provides that to determine the average cost of lodging, divide the total amount paid for lodgings during the period covered by the voucher by the number of nights for which lodgings were or would have been required while away from the official station. Moreover, FTR para. 1-7.3c(2) requires that the traveler actually incur expenses for lodging before allowing consideration of lodging costs for purposes of computing per diem.

As stated by the Court of Claims in Bornhoft v. United States, 137 Ct. Cl. 134, 136 (1956);

"A subsistence allowance is intended to reimburse a traveler for having to eat in hotels and restaurants, and for having to rent a room in another city while still maintaining his own table and his own permanent place of abode. It is supposed to cover the extra expenses incident to traveling."

Under the rule set forth in Bornhoft, as well as the controlling Federal Travel Regulations cited above, the only lodging expenses which may

B-191559

be reimbursed to a traveler are those that he actually paid for in connection with his official travel. While weather conditions beyond his control may have precluded him from reaching or staying at commercial lodgings while awaiting the next available flight back to his official duty station, such factor forms no basis under the law or regulations to credit or pay him lodging costs on a hypothetical basis.

The administrative action taken on the traveler's voucher is in accord with the FTR, and the Bornhoft rule. Under these circumstances the position taken by the EPA certifying officer is correct and the supplemental voucher submitted may not be paid.


Deputy Comptroller General
of the United States