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DECISION



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

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FILE: B-191597

DATE: November 8, 1975

MATTER OF: John H. Curtis - Claim for Temporary Quarters
and Mileage for Transfer Travel of Dependents

- DIGEST:**
1. Employee's dependent wife and daughter who had returned from Bangkok, Thailand, in July 1975 were occupying residence quarters in Port Arthur, Texas, at time employee was authorized transfer from Bangkok to New Orleans in October 1975. Employee owned dwelling in Port Neches, Texas, which he had rented out through October 1975. Dependents departed Port Arthur and occupied dwelling in Port Neches for period November 24 through December 18, 1975. Circumstances show that dwelling in Port Neches was "temporary quarters." What constitutes "temporary quarters" is not susceptible of precise definition and is determined by particular facts involved and intent of parties.
 2. Employee occupied temporary quarters in New Orleans while his two dependents occupied temporary quarters in Port Neches, Texas. Employee's itemized statement of dependents' expenses of meals shows daily cost was double the expenses for meals which he had incurred. Employee may not be allowed reimbursement for dependents' meals on the basis of evidence presented. Paragraph 2-5.4 of the FTR allows reimbursement "only for actual expenses incurred."
 3. Employee may be reimbursed for mileage incident to his dependents' travel by privately owned automobile in connection with his transfer in November 1975, even though agency is not certain as to precise date travel occurred, either November or December 1975. Only requirement with regard to timing of dependent travel as condition for reimbursement is found at para. C7001 of JTR and para. 2-1.5b(2) of FTR which provides that all transportation for dependents must begin within 2 years from date employee reports for duty at new duty station.

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This action is in response to a request for an advance decision by Mr. R. G. Bordley, Chief, Accounting and Finance Division, Defense Logistics Agency (DLA), Headquarters, Cameron Station, Alexandria, Virginia, as to whether Mr. John H. Curtis, an employee of the DLA, may be reimbursed temporary quarters subsistence expenses and travel expenses incurred by his dependents in connection with his transfer from Bangkok, Thailand, to New Orleans, Louisiana.

Mr. Curtis was transferred from Bangkok, Thailand, to New Orleans, Louisiana, in November 1975, by Travel Order No. 1501-76, dated October 29, 1975, which noted that the transportation of Mr. Curtis' dependent wife and daughter had been performed as an early return from overseas. Reimbursement for temporary quarters subsistence expenses was authorized.

Mr. Curtis' dependents returned to the United States from Bangkok in July 1975, under Travel Order 3709-75, June 2, 1975, authorizing their return to Port Neches, Texas, not to exceed the cost of return to the employee's home of record, El Paso, Texas. They apparently took up residence in Port Arthur, Texas. Mr. Curtis returned to the United States in November 1975 and shortly thereafter his dependents moved to Port Neches, Texas, where they occupied a home they owned which they had rented out through October 30, 1975. Mr. Curtis' wife and daughter occupied this residence during the period November 24 through December 18, 1975. During the time that his dependents occupied the dwelling in Port Neches, Mr. Curtis occupied a motel room in New Orleans. Mr. Curtis claims reimbursement for meals taken by his dependents at commercial facilities during the time they were in Port Neches as Mr. Curtis states that there were no cooking facilities in the dwelling. The home at Port Neches was sold on December 22, 1975.

The Defense Contract Administration Service region in Dallas, Texas, has disallowed Mr. Curtis' claim on the basis that the home he owned in Port Neches, Texas, could not be considered as a temporary quarters.

The term "temporary quarters" is defined in para. 2-5.2c of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) as follows:

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"c. What constitutes temporary quarters.

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."

A determination as to what constitutes temporary quarters is not susceptible of any precise definition and depends upon the facts of each case, giving weight to the intent of the employee as manifested by words and actions at the time the quarters in question are occupied. See B-179556, May 14, 1974, and B-173585, September 17, 1971.

Under the particular circumstances of this case we believe that Mr. Curtis' dependents vacated their residence quarters in Port Arthur, Texas, with the intent to reside only on a temporary basis at the dwelling in Port Neches prior to joining the employee in New Orleans.

The agency has recommended that the claim for the subsistence expenses of Mr. Curtis' dependents incident to their occupancy of temporary quarters be denied on the basis that the itemized statement presented by Mr. Curtis does not appear to show the actual expenses incurred for meals. A review of the record shows that the daily amount which Mr. Curtis has claimed for meals for his dependent wife and daughter during the period November 24 to December 18, 1975, represents an amount almost exactly double the daily amount Mr. Curtis claimed as his meal expenses while occupying temporary quarters in New Orleans. For example on November 24, 1975, Mr. Curtis' itemized statement shows that his meal expenses totalled \$13.95 while for the same day his dependents incurred meal expenses in the amount of \$27.90. The following day November 25, the respective amounts claimed were \$13.66 and \$27.34. This one to two ratio for the amounts claimed for meals exists for the entire period for which reimbursement is claimed.

Paragraph 2-5.4 of the FTR allows reimbursement "only for actual subsistence expenses incurred" provided such expenses are incident to occupancy of temporary quarters "and are reasonable

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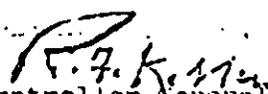
as to amount." This regulation expressly required that the itemization of the costs of meals represent the actual amounts. See B-169923, August 14, 1970. As the record casts doubt as to whether the amounts claimed by Mr. Curtis represent the actual costs of meals incurred by his dependents, reimbursement therefore was properly disallowed on the basis of the evidence presented by the employee.

Mr. Curtis has also claimed reimbursement in the amount of \$38.85 for mileage traveled by his wife and daughter from Port Neches to New Orleans, for a distance of 259 miles. The agency has not allowed Mr. Curtis reimbursement due to uncertainty as to the exact date on which Mr. Curtis' dependents traveled by privately owned automobile to the new duty station. On D.O. Voucher 400465, dated July 21, 1976, Mr. Curtis indicates that his dependents traveled from Port Neches to New Orleans on November 23, 1975, whereas in his reclaim voucher dated August 30, 1977, he indicated that his dependents' travel occurred on December 30, 1975.

The only requirement with regard to the timing of dependent travel incident to transfer is found at para. C7001 of the Joint Travel Regulations and para. 2-1.5b(2) of the FTR which provide that all transportation for dependents must begin within 2 years from the date the employee reports for duty at the new duty station. As the dates specified by the employee are within the 2-year time limitation for beginning transfer travel the agency may allowed Mr. Curtis payment of mileage for his dependents' travel.

We note that Mr. Curtis' claim for reimbursement for mileage for his dependents' travel is at the rate of \$.15 per mile. However, para. C8200-3 of the Joint Travel Regulations which was in effect at the time Mr. Curtis' wife and daughter performed their travel provided for reimbursement of mileage at the rate of \$.10 per mile when two members of the employee's immediate family travel in the privately owned automobile. Accordingly, Mr. Curtis should be reimbursed at the rate of \$.10 a mile for the travel performed by his wife and daughter.

Action on the reclaim voucher should be taken in accordance with the above.


Deputy Comptroller General
of the United States