

DECISION

R. N. Mitalof P.M. 2
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

8357

FILE: B-192343

DATE: November 15, 1978

MATTER OF: Mr. Hubert Mitchell

- DIGEST:
1. Transferred employee stayed at motel at new station from March 19 through March 21, 1978, when he moved into rented quarters which employee continued to occupy for a period in excess of 30 days is entitled to payment for temporary quarters expense for the period he stayed at the motel, but may not be reimbursed such expense for the rented quarters as they were not, in fact, a temporary place of residence. Paragraph C13000 (change 133, November 1, 1976), 2 JTR.
 2. Transferred employee without dependents who discontinued and established a residence in connection with a permanent change of station is entitled to a miscellaneous expense allowance of \$100. Paragraphs C9002 and C9003 (change 131, September 1, 1976), 2 JTR.

This action is in response to a letter dated June 21, 1978, with enclosures, from the Accounting and Finance Officer, Defense Logistics Agency, Defense Depot Memphis, Memphis, Tennessee, submitting a voucher and requesting an advance decision concerning a claim of Mr. Hubert Mitchell for payment of temporary quarters subsistence expenses and miscellaneous expense allowances incident to his transfer of station in March 1978. The request was assigned PDTATAC Control No. 78-42 by the Per Diem, Travel and Transportation Allowance Committee.

Mr. Mitchell, a civilian employee of Defense Property Disposal Region, Memphis, by Travel Order No. DPDR 78-M-78-19, dated March 23, 1978, was directed to move on permanent change of station from Albany, Georgia, to Warner Robins Air Force Base, Georgia. The travel order authorized temporary quarters subsistence expenses for 30 days and miscellaneous expenses. The remarks section of that travel authorization contains the statement "Employee has dependents but does not plan to relocate at this time."

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Upon arrival at Warner Robins, Georgia, on March 19, 1978, Mr. Mitchell stayed at the Robins Motel, Inc., through March 21, 1978, incurring expenses for 2 days. He moved to 1101A South Davis Drive, on March 22, 1978, and has furnished a receipt dated that day which indicates that he paid "room rent" for the period March 22, 1978, through April 18, 1978. In an inter-office memorandum dated June 17, 1978, submitted with his claim voucher, he states that on that date he was still living at 1101A South Davis Drive, that no household goods were moved there, and at the time he had no plans to move from that address. With regard to reimbursement for temporary lodgings he states in that memorandum: "It was my understanding that I was entitled to 'temporary quarters for 30 days' and after that time it didn't matter if I continued living there."

The Accounting and Finance Officer recommends that the claim for temporary quarters be disallowed because Mr. Mitchell intends to make 1101A South Davis Drive his abode on a permanent basis, but recommends that payment of the claim for miscellaneous expense allowance be authorized.

Section 2-5.2c, Part 5, chapter 2 of the Federal Travel Regulations, FPMR 101-7, May 1973, issued by the General Services Administration to implement 5 U.S.C. 5724a(a)(3) defines temporary quarters as follows:

"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." (Emphasis added.)

Paragraph C13000 (change 133, November 1, 1976) of 2 Joint Travel Regulations (2 JTR) provides in pertinent part:

"* * * Temporary quarters refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee and/or his dependents who have vacated the residence

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quarters in which they were residing at the time the transfer was authorized. Temporary quarters must, in fact, be a temporary place of residence.
* * * (Emphasis added.)

When an employee in a new location moves into quarters which subsequently become his permanent residence, the determination of whether or not those quarters were temporary is based on the intent of the employee at the time he moves into the lodgings. 53 Comp. Gen. 508 (1974); B-179870, September 26, 1974; B-174971, February 28, 1974. We have consistently held that an employee may not be reimbursed for quarters occupied on a rental basis while awaiting the signing of a sales contract. B-183641, October 9, 1975; B-183875, July 31, 1975. In addition, we held in B-179870, supra, that the intention of an employee to move to his expensive quarters at some future time was too indefinite to support a conclusion that the rented quarters were, in fact, temporary.

The claimant in this case has a family but on transfer to Warner Robins his family did not move from their residence at the old duty station. The employee has stated that he has no plans to relocate his family to the new duty station. Thus, when he traveled to his new duty station he sought quarters for himself alone and after 2 days in a motel he rented a room. The receipt he has furnished for room rent covers only the balance of the 30-day period of eligibility for temporary quarters allowance. However, no other evidence has been presented which would tend to show that he did not intend to make that room his permanent residence at the new duty station. Further, as noted above he felt he was entitled to temporary quarters for 30 days even though he continued to reside in the quarters occupied during the period for which that allowance was claimed. Under these circumstances, payment for temporary quarters subsistence expenses may be paid for the period he stayed at the motel and denied for the period he resided at 1101A South Davis Drive.

Regarding payment of the miscellaneous expense allowance, it has been held that an employee who moves to his new duty station but does not relocate his immediate family is entitled to such allowance only to the extent it may be allowed for an employee without immediate family. B-171685, February 22, 1971; B-163076,

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January 12, 1968. Accordingly, the claim for miscellaneous expense allowance may be allowed in the basic amount of \$100 if otherwise correct.

Accordingly, the voucher submitted with this claim is being returned to the Accounting and Finance Officer to be modified and recomputed and for payment in accordance with this decision.

Milton J. Acosta
for Comptroller General
of the United States