

DOCUMENT RESUME

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[Temporary Quarters Subsistence Expenses for Lodging Furnished by Relatives]. B-191673. December 4, 1978. 3 pp.

Decision re: Richard W. Metzler; by Robert F. Keller, Deputy Comptroller General.

Contact: Office of the General Counsel: Personnel Law Matters I.
Organization Concerned: Department of Labor: Mine Safety and Health Administration.

Authority: 5 U.S.C. 5724a. 52 Comp. Gen. 78. 55 Comp. Gen. 856.
B-190716 (1978). B-182135 (1974). E-187822 (1977). F.T.R. (FPMR 101-7).

A decision was requested concerning the reasonableness of the claim of an employee for \$10 per day for lodging furnished by a relative included in a claim for temporary quarters subsistence expenses. The claim may not be allowed either in the amount claimed or in a lesser amount determined by the agency in the absence of sufficient information to determine the reasonableness of the amount. The burden is on the employee to supply the necessary information. Regulations authorize reimbursement of actual expenses only, so no fixed allowance may be authorized. (Author/SC)

DECISION



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

8520

FILE: B-191673

DATE: December 4, 1978

MATTER OF: Richard W. Metzler - temporary quarters subsistence expenses - lodging with relatives

DIGEST:

Employee's claim for lodging furnished by relative included in claim for TQSE may not be allowed either in amount claimed or in lesser amount determined by agency in absence of sufficient information to determine reasonableness thereof as required by FTR 2-5.4. Burden is on employee to supply necessary information and it is not sufficient to show merely that amount claimed is less than commercial rate or maximum allowable. Agency may not authorize a fixed allowance in lieu of actual TQSE where relative furnishes lodging since 5 U.S.C. 5724a.(a)(3) authorizes only actual expenses.

Ms. Marilyn N. Barclay, an authorized certifying officer, has requested a decision concerning the reasonableness of the claim of Mr. Richard W. Metzler, an employee of the Mine Safety and Health Administration, U.S. Department of Labor, for \$10 per day for lodging and related services supplied by a relative which was included in Mr. Metzler's claim for temporary quarters subsistence expenses (TQSE).

Relying on 52 Comp. Gen. 78 (1972) and 55 Comp. 856 (1976), the certifying officer disallowed this part of the claim because of insufficient evidence upon which to make a determination as to the reasonableness of the amount. She did, however, offer further consideration if Mr. Metzler would submit information as to such matters as labor and costs incurred by the relative incident to furnishing lodging and related services to the claimant.

While he has reasserted his claim, Mr. Metzler has declined to furnish such information. He contends that (1) he was informed by his agency that he could use and be reimbursed for private temporary quarters provided he obtained a receipt which he has done; (2) he agreed in good faith to pay his relative \$10 per day for lodging, laundry, cleaning and pressing, utilities, etc.; (3) that this amount meets the test of reasonableness prescribed by the aforementioned decisions because it is considerably less than

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(a) commercial rates for lodging and (b) the maximum amount allowable under the regulations; and (4) the cited decisions do not apply to his case since they involve claims for the maximum amount allowable.

Mr. Metzler has offered to accept a lesser administratively determined amount provided it is reasonable if the amount he has claimed cannot be allowed. The certifying officer asks two specific questions which are as follows:

- "1. In the absence of a written agency policy specifying a reduced daily allowance when staying with relatives, is the above approach to determining reasonableness considering only extra or additional costs incurred by the relative appropriate?"
- "2. If the answer is in the affirmative, should we suspend such claims in total as we have done here, or should we pay what we feel is reasonable and suspend the remainder?"

Section 2-5.4 of the Federal Travel Regulations, FPMR 101-7, May 1973, which implements the law authorizing TQSE, 5 U.S.C. 5724a.(a)(3), provides that (a) reimbursement shall be only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable as to amount; (b) the actual expenses shall be itemized in a manner prescribed by the head of the agency which will permit at least a review of the amounts spent daily for lodging, meals, and all other items; and (c) the amount which may be reimbursed may not exceed certain prescribed maximums.

This regulation requires that to be reimbursable TQSE must not only be actual expenses not exceeding the prescribed maximums but they must also be reasonable as to amount. While reimbursement for charges for lodging and related services supplied by relatives may be allowable, we have consistently held that what is reasonable in such situations depends upon the circumstances in each case. To be considered are such things as extra labor and costs incurred by the relative and possibly other factors incident to furnishing the quarters and services. The burden is on the claimant to provide sufficient information to enable his employing agency to determine the reasonableness of his claims, and it is not enough to show

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merely that the amount is less than the commercial rate or the maximum allowable under the regulations. 52 Comp. Gen. 78, supra; Matter of Richard Ennis, B-190716, May 9, 1978.

Moreover, even though the determination of what is reasonable is primarily the responsibility of the employing agency, the agency may not make such a determination arbitrarily and without adequate information to justify the amount arrived at. Matter of Gordon S. Lind, B-182135, November 7, 1974; Matter of Michael J. Scullin, B-187322, June 1, 1977.

The certifying officer's questions are answered accordingly and Mr. Metzler's claim for lodging and related services supplied by his relative may not be paid either in the amount claimed or in a lesser amount determined by the agency in the absence of sufficient information to determine the reasonableness thereof.

While not essential for the disposition of this case, one other issue should be clarified. The phrase, "In the absence of a written agency policy specifying a reduced daily allowance when staying with relatives * * *?", in the certifying officer's first question implies that a predetermined fixed allowance in lieu of actual TQSE might be authorized. There is no authority for such a fixed TQSE allowance since as has been previously indicated, the governing law and regulations permit the payment of only actual expenses within the prescribed limits. If there is a misconception in this regard it may have arisen from 55 Comp. Gen. 856, supra, wherein the foregoing reasonableness test was applied to per diem under the lodgings-plus system. It was suggested in that decision that under FTR 1-7.3c an agency might in the alternative issue regulations providing for the use of a specific per diem rate, rather than the lodgings-plus system, when it is known that the employee will lodge with friends or relatives. However, the authority for such a specific rate applies only to per diem and has no application to TQSE.


Deputy Comptroller General
of the United States