

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

10,497

FILE: B-194073

Personal name

DATE: June 18, 1979

MATTER OF: Myroslaw J. Yuschishin - *[Claim for]* Subsistence while occupying temporary quarters

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DIGEST: Employee of United States Department of the Army, Corps of Engineers, was transferred from Philadelphia, Pennsylvania, to Washington, D.C. He was authorized 24 days of temporary quarters subsistence expense (TQSE). He rented an apartment, moved in his household goods, and remained there for 1 year before he purchased a home. *Temporary quarters* TQSE may not be paid since there is no indication that employee intended the apartment to be other than his permanent residence.

DLG 01028

By letter of February 1, 1979, Mr. John H. Bransby, Finance and Accounting Officer, Baltimore District, United States Department of the Army, Corps of Engineers, requests an advance decision concerning the payment of subsistence while occupying temporary quarters (TQSE) claimed by Mr. Myroslaw J. Yuschishin, a Corps employee, incident to a permanent change of station. For the following reasons Mr. Yuschishin is not entitled to TQSE.

The record indicates that by Travel Order No. PCS 77-19, Mr. Yuschishin was transferred from Philadelphia, Pennsylvania, to Washington, D.C. He was authorized TQSE for 24 days. In the Washington, D.C. area he rented an apartment which he occupied until he purchased a home 1 year later. Mr. Bransby states that the apartment constituted Mr. Yuschishin's permanent residence. The claim has been disallowed. At the time Mr. Yuschishin rented the apartment he moved in all of his household goods. We are advised informally that he used the monthly rent as a base figure to arrive at his average quarters cost a day and together with the cost of his meals he seeks reimbursement for these items as TQSE.

The payment of subsistence while occupying temporary quarters is governed by part 5, chapter 2, of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973). An employee may not be reimbursed for temporary quarters and subsistence expenses after he occupies the residence in which he intends to remain. 53 Comp. Gen. 508 (1974). However, where there is evidence that the employee has reasonably demonstrated his intent to use the quarters only on a temporary

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basis reimbursement is proper. Matter of Calvin Reese, B-187834, June 21, 1977. Therefore, it must be determined whether Mr. Yuschishin occupied the apartment on a permanent or temporary basis.

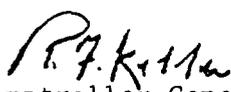
The term "temporary quarters" is not defined either in the applicable statute, 5 U.S.C. 5724a(a)(3) (1976), or the implementing regulations contained in the FTR. We have held that a determination as to what constitutes temporary quarters must be made on the facts in each case. 47 Comp. Gen. 84 (1967). In determining whether permanent type quarters were occupied temporarily we have considered such factors as movement of household effects into the quarters, the duration of a lease, the period of residence in the quarters by the employee, any expressions of intent, and attempts to secure a permanent dwelling. See: Matter of C. Burton Winkle, B-185695, June 21, 1976, cited in Reese, supra.

We have consistently held that 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 initially temporary is based on the intent of the employee at the time he moved into the lodgings. Matter of Charles L. Avery, B-179870, September 26, 1974.

The burden of providing convincing evidence of intent is on the person requesting reimbursement. The absence of any evidence supporting an intent to obtain a permanent residence elsewhere mitigates against reimbursement. See: Avery, supra.

Here there is no indication that Mr. Yuschishin intended to use the apartment for anything other than his permanent residence. He moved his household goods into the apartment when he first rented it and he remained in the apartment for 1 year. There is no indication that he sought another place to live. The fact that he eventually purchased a home 1 year later does not demonstrate that the apartment was a temporary residence.

Accordingly, the voucher setting forth Mr. Yuschishin's claim for temporary quarters subsistence expenses may not be certified for payment.


Acting Comptroller General
of the United States