

DECISION



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

10,939

FILE: B-193412

DATE: August 3, 1979

MATTER OF: Ronald H. Brown - [Computation of Subsistence Expenses While Occupying Temporary Quarters]

DIGEST: Transferred employee submitted two claims on same date for subsistence while occupying temporary quarters, one for himself while occupying temporary quarters at new station from March 1 to May 3, 1977, and one for wife and two children at old station from May 2 to May 30, 1977. He is entitled to subsistence from May 1 to May 30, 1977. Employee may claim for period when he occupies temporary quarters by himself or when his family vacates old residence. Also, he may claim subsistence for family for period when he is away from his station on temporary duty, receives per diem, and is not entitled to subsistence.

Mr. Ronald H. Brown, Special Agent, United States Secret Service, has appealed the disallowance by our Claims Division of his claim for subsistence of his family while they occupied temporary quarters from May 1 to May 30, 1977, incident to his transfer of station. The appeal involves two questions: (1) whether an employee is required to claim subsistence expenses while occupying temporary quarters only for the 30-day period that begins when he occupies temporary quarters at his new station even if his family remains at the residence at his old station; and (2) whether an employee may receive subsistence expenses for his family while he is away from his station on a temporary duty assignment and is paid per diem. For the reasons stated below, we answer the first question in the negative and the second question in the affirmative. The answers to the two questions increase Mr. Brown's entitlement to reimbursement, and our Claims Division will issue a settlement for the amount due if the claim is otherwise proper.

Mr. Brown was transferred from Atlanta, Georgia, to Washington, D.C., and was authorized 30 days subsistence while occupying temporary quarters. He occupied temporary quarters at his new station from March 1 to May 3, 1977, except for periods of temporary duty away from his station. He also was away from Washington on temporary duty from May 4 to June 15,

~~208857~~

B-193412

1977. His family remained in Atlanta since he was unable to sell his house at the time of his transfer. After the house was sold, the family occupied temporary quarters in Atlanta from May 1, 1977, until the middle of June 1977 when Mr. Brown's residence at his new station became available for occupancy.

Mr. Brown submitted a voucher claiming subsistence while he occupied temporary quarters from March 1 to May 3, 1977, at his new station. He also submitted a voucher claiming subsistence while his family occupied temporary quarters in Atlanta between May 1 and May 30, 1977. The Secret Service held that Mr. Brown's entitlement began on March 1, 1977, when he first occupied temporary quarters, and ended on May 5, 1977, the expiration of the occupancy of temporary quarters for 30 days by Mr. Brown or his family, exclusive of periods when Mr. Brown was away from Washington on temporary duty assignments and was paid per diem in lieu of subsistence. The payment for the family from May 1 to May 5, 1977, was at the rate for the last 10 days of the temporary quarters period. Mr. Brown's claim for additional temporary quarters subsistence expenses (TQSE) from May 6 to May 30, 1977, was then sent to our Office.

Our Claims Division disallowed the claim because Federal Travel Regulations (FPMR 101-7) paragraph 2-5.2f (1973) provides that the period of eligibility for TQSE shall run consecutively and concurrently for both the employee and members of his immediate family and on the record before it the period of eligibility expired on May 5, 1977. Mr. Brown has appealed the disallowance on the ground that, had he not been on temporary assignment for the Government, he could have claimed separate quarters for the May period since he and his family did not move into their new house until the middle of June 1977.

We have received new evidence concerning this claim. The Secret Service has forwarded us a copy of the voucher on which Mr. Brown claimed TQSE for 28 days from March 1 to May 3, 1977, when he occupied temporary quarters at his new station. An official of the Service has also advised us informally that Mr. Brown was probably informed that he could not claim TQSE for his family when he was on temporary duty and paid per diem.

Paragraph 2-5.2e of the FTR provides that in order to be eligible for the temporary quarters allowance, the period of use

B-193412

of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station. We have construed prior similar regulations as giving the employee the discretion to claim the allowable 30-day period of his choice. B-177842, March 27, 1973. Therefore, Mr. Brown had the option of claiming TQSE within 30 days of his arrival at his new station or within 30 days after his family vacated the old residence. However, he is strictly limited to one 30-day period. See FTR para. 2-5.2f which was cited by our Claims Division.

Concerning the question whether an employee may claim TQSE for his family when he is away from his station on temporary duty and paid per diem, we have held under similar prior travel regulations that he may do so. B-170336, October 29, 1970; and B-171715, February 24, 1971. The employee, of course, cannot receive subsistence expenses for himself for the same days on which he receives a per diem payment incident to official travel. Thus, Mr. Brown's receipt of a per diem allowance incident to temporary duty away from his official duty station does not affect his claim for subsistence for his family and does not, without more, prevent allowance of his claim.

In the instant case, the record now shows that Mr. Brown submitted his two claims for TQSE on the same day, June 24, 1977, and the Secret Service apparently processed the claims believing that his period of eligibility had to begin on March 1, 1977, and that he could not claim TQSE for his family while he was away from his station on temporary duty. However, as indicated above, the employee has the option of either claiming TQSE when he begins to occupy temporary quarters or when his family vacates its residence at the old station; and an employee may claim TQSE for his family although he is paid per diem while on temporary duty away from his official duty station. Thus, the Secret Service should have advised Mr. Brown to submit his claim for the period more advantageous to him. This period was from May 1 to May 30, 1977, since the record shows he had a wife and two children.

In view of the above, our Claims Division will process a settlement for the additional amount due under this decision if

B-193412

the claim is otherwise proper. The settlement will reimburse Mr. Brown for his family's reasonable subsistence expenses from May 1 to May 30, 1977, and his expenses from May 1 to May 3, 1977. From this amount the previous payment for TQSE from March 1 to April 30, 1977, will be deducted.


for the Comptroller General
of the United States