

12377 PLM-I

DECISION



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

FILE: B-195940

DATE: December 26, 1979

MATTER OF: H. Curtiss Burrell - [Claim for Actual Subsistence Expense for Breakfast]

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DIGEST: An employee assigned to temporary duty and authorized reimbursement for actual subsistence expenses is ordinarily expected to eat breakfast at home on the day of departure from his residence. However, where the employee's departure is at such an early morning hour that it would be unreasonable to expect him to eat breakfast at home, he may be reimbursed for a breakfast purchased away from his permanent duty station.

P1 By a letter dated August 30, 1979, an official of the Drug Enforcement Administration (DEA), has requested our decision regarding the propriety of reimbursement for breakfasts consumed in a travel status by H. Curtiss Burrell, an employee of the DEA. 10

Most of the vouchers submitted relate to the same factual situation. Mr. Burrell, whose official duty station is San Diego, California, was assigned to temporary duty in Los Angeles. Since Los Angeles is a designated high rate geographical area under paragraph 1-8.6 of the Federal Travel Regulations, he was authorized actual subsistence expenses in lieu of per diem. Instead of traveling to Los Angeles the previous night, Mr. Burrell departed from his residence early in the morning between 4:30 a.m. and 6:30 a.m. Although he completed temporary duty and returned the same night or early the next morning, in each instance he was in a travel status in excess of 10 hours and, thus, not subject to the rule against reimbursement where travel time is 10 hours or less. See Nicholas M. Veneziano, B-194197, September 27, 1979, 58 Comp. Gen. _____.

On the mornings that he departed early from his residence, Mr. Burrell ate breakfast en route to or at his temporary duty station. Based on our holdings in Bennie L. Pierce, B-185826, May 28, 1976, and Roscoe L. Simmons, B-189622, March 24, 1978, DEA denied Mr. Burrell's claim for reimbursement for the cost of that meal. Mr. Burrell has asked that the disallowance be reconsidered

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inasmuch as he feels it is unreasonable to expect a Government traveler to eat breakfast in the early morning hours before 6:30 a.m.

The Pierce decision involved an employee furnished lunch on an airplane flight who purchased a second lunch later that day. In disallowing his claim for duplicate meal expenses, we stated:

"In the present case, Mr. Pierce contends that he did not have time to eat breakfast, and that the meal consumed on the flight was his first of the day. In this connection he states that he left his home at 6:45 a.m., picked up his colleague at 7 a.m., arrived at the airport at 8:30 a.m., and boarded his plane at 9 a.m. Viewed objectively, however, there does not appear to be any reasonable explanation as to why Mr. Pierce was unable to eat breakfast prior to leaving his home, however early such departure may have been. There is, then, no authority by which the claim for reimbursement of the \$4.30 item may be granted. Accordingly, reimbursement of that item may not be made."

Also see Thomas B. Woll, B-186820, February 23, 1978, and Jesse A. Atkins, B-193504, August 9, 1979. In the Simmons case the employee who had not been furnished an airline meal bought dinner after his arrival at the airport at his permanent duty station but before returning to his home. In addition to the fact that subsistence expenses incurred at an employee's permanent duty station are generally not allowable, we held that the cost of the dinner was not a necessary expense of official travel, but a matter of personal preference.

While Mr. Burrell's claim does not involve duplicate meals or subsistence expenses incurred at his permanent duty station, the above-cited decisions are nonetheless instructive. In general, an employee is expected to partake of a morning meal at his residence on the day he departs for official travel. However, as suggested by the Pierce decision, there may be justification for the employee to do otherwise. Although it involved a meal furnished by an air carrier, in James H. Morrill, B-192246, January 8, 1979, we recognized that a significant disruption of the employee's eating routine might constitute just such justification. In holding that the employee could be reimbursed on an actual expense basis for the cost of a dinner purchased in lieu of the meal provided by the air carrier, we noted:

"The question presented involves a matter of judgment with respect to the particular facts of the given case. When a traveler does not eat a meal provided by an airline and then claims the cost of a meal taken after arrival at the temporary duty location (at which he is allowed subsistence on an actual expense basis), he must have 'justifiable reasons' for such action. The abbreviated facts in this case provide more than one basis on which a determination of justifiable reason could be predicated, i.e., the employee ate a late lunch because of official duties, the 'dinner' meal provided by the airline was served well before the normal dinner hour; the employee was scheduled to arrive earlier than the normal dinner hour at his destination; and the travel resulted in extending the traveler's day by 3 hours. Thus, there appears to be sufficient basis for the action taken by the traveler in this case. Accordingly, we hold that the claim may be paid if otherwise correct."

In Mr. Burrell's case, the determination of whether he should be reimbursed for the cost of the breakfasts claimed is a matter of judgment within the discretion of the DEA. Where his departure from his residence was at such an early hour that it would have been unreasonable to expect him to eat breakfast at home, he may be reimbursed for a morning meal purchased at other than his permanent duty station. In this regard, the controlling consideration is the amount of time between the employee's departure and the lunch hour.

Since it does not appear that DEA understood the extent of its authority to reimburse Mr. Burrell for breakfast expenses on any day of departure from his residence, his vouchers should be reexamined in light of the above discussion. Although the matter is for determination by DEA, it would not appear proper to reimburse Mr. Burrell the \$3.50 claimed for breakfast on the morning of March 4, 1978, when he returned to his residence at 4 a.m. following temporary duty in Los Angeles the previous day.



For the Comptroller General
of the United States