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**DECISION**



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

**FILE:** B-197958 *[Claim for Reimbursement of]* **DATE:** March 31, 1980

**MATTER OF:** Richard E. Hoffman - *[Temporary quarters subsistence expenses]*

**DIGEST:** Employee is entitled to temporary quarters subsistence expenses where he occupied empty room in garage of house he contracted to purchase as his permanent residence prior to date he had right to occupy residence itself. Regardless of whether attached to or detached from house, garage is not generally intended as living quarters, and its occupancy does not constitute occupancy of permanent residence quarters under FTR para. 2-5.2. Compare B-174971, February 28, 1972.

We have been asked to determine whether an employee may be reimbursed temporary quarters subsistence expenses for the period that he and his wife occupied the detached garage of the house which he purchased as his permanent residence. Since the employee did not have the right to occupy any part of the house itself, he may be paid temporary quarters subsistence expenses for the period he and his wife stayed in the garage.

The claim for temporary quarters subsistence expenses for the period from October 25 through November 4, 1979, was submitted by Richard E. Hoffman, an employee of the National Park Service, U.S. Department of the Interior, incident to his transfer from Skagway, Alaska, to Seattle, Washington, on September 25, 1979. In connection with his transfer from Alaska, Mr. Hoffman was authorized temporary quarters subsistence expenses beyond the initial 30-day period as provided for at Federal Travel Regulations (FTR) (FPMR 101-7) para. 2-5.2b.

Beginning September 25, 1979, and pending his purchase of a house in Seattle, Mr. Hoffman and his wife stayed in a motel. They have been reimbursed temporary quarters subsistence expenses through October 24, 1979, the period they resided in commercially rented quarters. Mr. Hoffman explains that although the motel was modestly priced, the allowance he received had not, since October 15, 1979, covered the costs of lodgings and meals they incurred. To reduce their living costs, the Hoffmans, on October 25, 1979, rented and occupied an empty room in the

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detached garage of the residence they had contracted to purchase. The costs they incurred included rent of \$35 paid to the seller of the residence, \$35.80 for beds paid to a furniture rental company, and meal expenses. Although the closing for the purchase of the residence took place on October 30, 1979, the Hoffmans continued to reside in the garage until November 5, 1979, when they became entitled to take possession of the house.

In disallowing Mr. Hoffman's claim for temporary quarters subsistence after October 24, 1979, the National Park Service found that the period of his eligibility had terminated upon his occupancy of permanent residence quarters under FTR para. 2-5.2f. In reclaiming the expenses disallowed, Mr. Hoffman states that he did not move into a permanent residence, but an empty room in the detached garage. Because the structure was a separate building on the property, the certifying officer, Katherine L. Swift, asks whether Mr. Hoffman is to be regarded as having occupied his permanent residence quarters as of the date he and his wife moved into the room in the detached garage. More specifically, she asks whether the Hoffmans' situation is to be distinguished from that of the individual whose claim for temporary quarters subsistence expenses while occupying the unfinished basement of the house he had contracted to purchase was disallowed in B-174971, February 28, 1972.

Paragraph 2-5.2c of the FTR, 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."

Paragraph 2-5.2f provides in part that:

"\* \* \* The employee may occupy temporary quarters at one location while members of the immediate family occupy quarters at another location. The period of eligibility shall

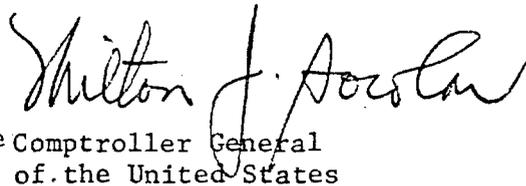
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terminate when the employee or any member of his immediate family occupies permanent residence quarters or when the allowable time limit expires, whichever occurs first."

Under the above regulation, this Office has consistently held that an employee may not be reimbursed subsistence expenses during the period he occupies the residence in which he intends to remain, and that the fact that such occupancy results in savings to the Government may not serve as a basis for holding otherwise. Matter of Jack Carson, B-191626, November 20, 1978. This is true regardless of the fact that the employee's furniture has not been delivered, 46 Comp. Gen. 709 (1967) and Matter of Kenneth C. Crawford, B-194065, June 8, 1979; notwithstanding that utilities and appliances may not have been connected, B-170056, July 29, 1970, and B-161348, May 31, 1968; and despite the fact that the residence still may be under construction and unsuitable for occupancy. B-174831, April 13, 1972.

In B-174971, cited by the certifying officer, we held that upon the employee's rental and occupancy of the unfinished and unfurnished basement of the house he had contracted to purchase, he was deemed to have moved into his permanent residence. Under that decision as well as B-174831, supra, it is irrelevant whether the portion of the residence occupied is suitable for occupancy. In contrast, a garage, whether attached to or detached from the residence, is not normally intended to be used as living quarters. For this reason, an employee who has not obtained the right to occupy the residence portion of his new home may be paid temporary quarters subsistence expenses for his rental occupancy of the garage which is conveyed as a part of his purchase of that permanent residence.

Accordingly, we hold that Mr. Hoffman is entitled to a temporary quarters allowance for the period that he occupied the detached garage of the house he purchased and ultimately occupied as his permanent residence.



For the Comptroller General  
of the United States