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DECISION



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

FILE: B-196284

DATE: August 14, 1980

MATTER OF: Douglas D. Mason - Temporary Quarters
[Request for] Subsistence Expenses] - Rental of Perma-
nent Home
DIGEST:

Employee who, incident to permanent change of station from Yuma, Arizona, to McCook, Illinois, rented house in McCook before settlement is not entitled to temporary quarters subsistence expenses. Even though loan approval was in question, rental resulted in savings to Government, and other lodgings were difficult to find, the employee's intent at time he moved into quarters was clearly to make house permanent residence.

Ms. Kathryn E. Mitchell, an authorized certifying officer at the Lower Missouri Regional Office, Bureau of Reclamation, Department of the Interior, requests an advance decision concerning the propriety of paying temporary quarters subsistence expenses in the amount of \$1,235.26, reclaimed by Mr. Douglas D. Mason, an employee of the Bureau of Reclamation. Transferred from Yuma, Arizona, to McCook, Illinois, Mr. Mason incurred the expenses in question while renting the residence he had contracted to purchase in McCook. The Bureau of Reclamation denied Mr. Mason's claim on the basis that an employee may not be reimbursed for temporary quarters subsistence expenses after he occupies the residence in which he intends to remain. We agree with the Bureau's determination. DLG 05077
PJ

Mr. Mason reported to his new duty station on October 13, 1978. His claim for subsistence expenses covers the period from December 4, 1978, to December 26, 1978. Although it is not clear from the record we assume that Mr. Mason's family travelled to McCook sometime after he arrived so that his entitlement is not barred by paragraph 2-5.2e of the Federal Travel Regulations (FTR) (FPMR 101-7) which provides that:

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"In order to be eligible for the temporary quarters allowance, the period of use 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, but not beyond the maximum time for beginning allowable travel and transportation."

Section 5724a(a)(3), title 5, United States Code (1970) is the statutory provision providing for reimbursement of temporary quarters allowance. Paragraph 2-5.2c of the FTR, implementing the statute, 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."

We have consistently held that the determination of the type of residence occupied i.e., temporary or permanent, is based on the intent of the employee at the time he or a member of his family moves into the quarters which later becomes his permanent residence. William C. Trust, B-183641, October 9, 1975, and cases cited therein.

Although Mr. Mason does not dispute that he intended to make the residence he rented his permanent home, he believes he is entitled to temporary quarters subsistence allowance for the following reasons:

"(1) Hotels in McCook had no facilities for pets (two dogs) and were extremely limited in space for a family of five.

"(2) There were no other homes or apartments available that would rent to a family of five with two large dogs. Temporary housing is very limited in McCook and most houses rent only with a year lease.

"(3) Information handed out prior to the move made no mention about not renting the house you were planning to buy. In fact, information was very sketchy.

"(4) This house was vacant and we felt the rental price was very reasonable.

"(5) Until the loan approval and closing date, we were not sure we would qualify for the purchase of this home as we had not sold our home in Yuma, Arizona and had no prospective buyers.

"(6) Renting this home saved having to pay for temporary storage of our furniture and cartage fees for a separate move."

We have consistently held that when an employee moves into a house he has decided to purchase, even though final settlement for the house has not yet taken place, he has ceased to occupy "temporary quarters." B-160904, March 7, 1967. We did not alter that holding where an employee rented a residence which he had arranged to purchase contingent upon the sale of his residence at the old station, B-171446, November 23, 1970, or where he occupied that house while negotiating for a loan, B-177244, February 20, 1973. We have reached the same result despite the fact that the occupancy of the purchased quarters resulted in a savings to the Government, or that some condition precluded the employee and his family from living in a motel, B-169962, July 2, 1970.

Accordingly, Mr. Mason's claim for temporary quarters subsistence allowance must be denied for the period in which Mr. Mason occupied the residence which he subsequently purchased.

Milton J. Fowler

For The Comptroller General
of the United States