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DECISION



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

FILE: B-197576

DATE: September 8, 1980

MATTER OF: Richard B. Davis - Reclaim for
actual subsistence expenses]
lodging - taxi fares

DIGEST: Determination as to reasonable-
ness of expenses made by FAA was
not arbitrary or capricious where
employee's claim for reimburse-
ment for lodging and taxi fares
on actual subsistence basis were
reduced to those incurred by other
FAA employees on same temporary
duty assignment. Employee uti-
lized travel agent and made hotel
reservations prior to issuance
of travel orders when agency had
rooms reserved at lower cost, and
resided further from temporary
duty site when lodging was avail-
able within immediate vicinity at
lower cost. Additional reimburse-
ment is not allowed.

This decision is in response to a request for reconsideration by the Chief, Accounting Division, *DLC 05199* Federal Aviation Administration (FAA), Southern Region, Atlanta, Georgia, of our Claims Division settlement Z-2809776, October 24, 1979. The settlement allowed in part the claim of Richard B. Davis, an FAA employee, Southern Region, Atlanta, Georgia, for additional lodging costs and taxi fares incurred while on a temporary duty assignment to the Virgin Islands.

The issue to be decided is the reasonableness of the lodging costs and taxicab fares incurred by the employee while on temporary duty.

Mr. Davis along with other FAA employees was required to attend a National Transportation Safety Board hearing in St. Thomas, Virgin Islands, November 5-9, 1978. The FAA on October 19, 1978, issued a formal notification of the pending hearing to the regional office. The notification stated that

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each participant was expected to make his own travel and lodging arrangements and that: "Five rooms have been reserved for the FAA at the Morningstar (809-774-8500), price \$35 to \$40 and five rooms at the St. Thomas-Sheraton (809-774-9705) price \$40 to \$50."

On the basis of oral notification of the pending trip, and prior to the issuance of travel orders, Mr. Davis made lodging and travel arrangements for himself and his wife through a travel agent on October 20, 1978. The lodgings were made at the Pineapple Beach Resort since allegedly there were no other accommodations available. Mr. Davis made a non-refundable prepayment to the travel agent for the lodging costs. Travel orders were issued to Mr. Davis on November 1, 1978, and he was authorized actual expenses not to exceed \$66 per day.

Mr. Davis claimed \$52 per day lodging expense for his stay at the Pineapple Beach Resort. Thus, he reached his maximum authorization of \$66 for each day during his stay in the Virgin Islands. The other FAA employees incurred lodging expenses of \$24 per day at the St. Thomas-Sheraton, and their taxi fares were less since their lodgings were closer to the temporary duty site and the airport. The FAA reduced Mr. Davis' claim for reimbursement to that claimed by the other FAA employees on the basis that the additional expenses were personal and Mr. Davis did not act in a prudent manner.

Our Claims Division allowed Mr. Davis' claim for lodging expenses and taxi fares on the basis that the limitation placed on Mr. Davis was imposed on an individual and not on an agency-wide basis, citing to Johnston E. Luton, B-182853, January 30, 1976. We held therein that since there is nothing in the statutes or implementing travel regulations precluding an agency head from prescribing a daily limitation on lodging expenses for a traveler on actual expenses, the agency head may place a limitation on lodging by regulation or agency-wide policy.

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The FAA has apparently not adopted a limitation or an agency-wide policy outside of the general rules governing employees traveling on official business issued in the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973). Paragraph 1-1.3 of the FTR states:

"1-1.3 General rules

"a. Employee's obligation. An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business.

"b. Reimbursable expenses. Traveling expenses which will be reimbursed are confined to those expenses essential to the transacting of the official business."

The agency's responsibility for the authorization and reimbursement of actual subsistence expenses is outlined in paragraph 1-8.3b of the FTR as follows:

"b. Review and administrative controls. Heads of agencies shall establish necessary administrative arrangements for an appropriate review of the justification for travel on the actual subsistence expense basis and of the expenses claimed by a traveler to determine whether they are allowable subsistence expenses and were necessarily incurred in connection with the specific travel assignment. Agencies shall ensure that travel on an actual subsistence expense basis is properly administered and shall take necessary action to prevent abuses."

Thus, it is the responsibility of the FAA to determine the reasonableness of actual subsistence expenses. Where the agency has exercised that responsibility, our Office will not substitute our judgment for that of the agency, in the absence of evidence

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that the agency's determination was clearly erroneous, arbitrary or capricious. 55 Comp. Gen. 1107 (1976). An evaluation of reasonableness must be made on the basis of the facts in each case. 52 Comp. Gen. 78 (1972).

The FAA has made a determination of reasonableness based on the expenses incurred by the other FAA employees on temporary duty at the same time at the same duty station. We see nothing unreasonable, arbitrary, or capricious about the FAA determination. For example, in Norma J. Kephart, B-186078, October 12, 1976, we held that an employee's meal expenses were not reasonable and that the agency should make a determination of reasonableness based on the experience of other travelers to the same high-cost area.

Mr. Davis made his hotel reservations prior to official notification and prior to the issuance of travel orders. The FAA notification to the employees states that the employees should make their own travel and lodging arrangements. However, the inclusion in the notification of the availability of rooms for FAA employees, together with the phone numbers to call for reservations, makes it clear that the employees should call the hotels listed. Mr. Davis also utilized a travel agent despite a general restriction against the use of travel agents to procure official Government travel. 4 C.F.R. 52.3 (1978); B-198301, May 1, 1980, 59 Comp. Gen. ____; 58 Comp. Gen. 710 (1979). Mr. Davis also claimed the maximum amount he was allowed of \$66 and the fact that the amount claimed was the amount he was allowed does not automatically entitle him to reimbursement. 55 Comp. Gen. 1107, 1110, above.

This Office has allowed lodging and travel expenses to an employee who stays in a motel at a greater distance than normal from his temporary.

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duty station when there is an overall cost savings to the Government. Robert C. Burden, 58 Comp. Gen. 706 (1979); William J. O'Brien, B-187344, January 23, 1977; B-178558, June 20, 1973. However, we have held contra where there is no showing that adequate lodging was unavailable within the immediate vicinity of a temporary duty station and no resulting overall savings in travel expenses. James Wasserman, B-192112, October 11, 1978. Therefore, we feel that the agency's action in reducing Mr. Davis' reimbursable lodging expenses and taxi fares to that incurred by the other FAA employees was reasonable. Mr. Davis resided further from his temporary duty site at a higher cost to the Government when lodging was available within the immediate vicinity at a lower cost.

We also note that Mr. Davis claimed reimbursement for dinner on the day of his departure from St. Thomas. His flight departed at 5:15 p.m. Thus, if it has not already done so, the FAA may want to determine if dinner was served on the flight and included in the ticket price. See Jesse A. Atkins, B-193504, August 9, 1979; James H. Morrill, B-192246, January 8, 1979.

Therefore, we find that the FAA determination of reasonableness was not in error and Mr. Davis is not entitled to the additional travel reimbursement. Our Claims Division settlement of October 24, 1979, is modified accordingly.

Harry D. Van Cleave

For the Comptroller General
of the United States