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Kramer
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DECISION



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

FILE: B-198299

DATE: October 28, 1980

MATTER OF: Charles E. Law

DIGEST:

Employee remained at his temporary duty (TDY) station after the TDY was completed in order to be with a fellow employee who, while also assigned to the same TDY, had become ill and required hospitalization. During the time the employee remained at his TDY station he incurred expenses for lodging, meals and telephone calls to his and the injured employee's family. Employee may not be reimbursed for these expenses since the decision to remain at the TDY station was a personal choice not connected with the performing or transacting of official business and reimbursement of travel expenses is confined to those expenses essential to the transacting of official business.

The issue is whether an employee may be reimbursed for expenses he incurred as a result of remaining at his temporary duty station with a fellow employee who, while also assigned to the same temporary duty, had become seriously ill and required hospitalization. Because the claimant's decision to stay with his fellow employee was a personal choice, it may not be considered as relating to the transacting or performing of official business and the reimbursement claimed may not be made.

The question, presented by letter of March 24, 1980, from Mr. Charles E. Law, is raised upon appeal from our Claims Division's settlement of March 19, 1980. Mr. Law's letter was forwarded to our Office by letter of March 27, 1980, from Ms. V.G. Leist, Authorized Certifying Officer, Internal Revenue Service.

The facts indicate that on June 6, 1979, Mr. Law, an employee of the Internal Revenue Service, (IRS), and Mrs. Isabelle Traurig, another IRS employee, arrived in Cleveland, Ohio, to perform temporary duty. On Friday, June 8, 1979, while walking to the Cleveland Federal Office Building, Mrs. Traurig collapsed

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into an unconscious state and was taken to a hospital where she was admitted as a patient. Her condition required that she be kept in the intensive care unit for 3 days.

Mr. Law accompanied Mrs. Traurig to the hospital and telephoned her family in Cincinnati. Upon learning that her relatives could not come immediately, Mr. Law decided to remain in Cleveland. Mr. Law did not depart until the morning of June 11, 1979, after Mrs. Traurig's family arrived. We assume that the temporary duty was completed on the day of the accident since Mr. Law returned to his permanent duty station after Mrs. Traurig's family arrived and there is no indication that Mr. Law worked during the days he remained in Cleveland to attend Mr. Traurig. During the time Mr. Law remained in Cleveland he regularly visited Mrs. Traurig in the hospital and telephoned her family to keep them advised. Also, during this time he incurred lodging, meal, telephone and miscellaneous expenses for which he seeks reimbursement.

On March 19, 1980, our Claims Division denied Mr. Law's claim on the grounds that the expenses he incurred were personal and not essential to the transaction of official business. That denial was based, in part, on our decision B-179818, November 8, 1973, involving an employee who remained at his temporary duty station in order to assist an injured fellow employee. We held that the additional time at the temporary station was not for purposes of official business and denied the employee's claim for additional per diem. Mr. Law contends that this case is not applicable to his situation since it involved an injury from a skiing accident that was unrelated to the purpose of the trip. Mr. Law points out that, in contrast, Mrs. Traurig's injury occurred while walking to the Regional Office Building to perform assigned duties and that she was admitted to an intensive care unit in a serious condition.

We agree with Mr. Law that the circumstances of his claim and the above-cited case are factually distinguishable. However, we believe that the same law and reasoning apply to his situation.

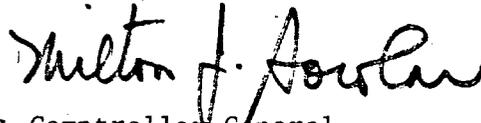
Payment of per diem of an employee traveling on official business is authorized by 5 U.S.C. 5702 (a) (1976). That subsection provides that an "employee while traveling on official business away from his designated post of duty" is entitled to a per diem allowance.

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Regulations implementing the above subsection provide that reimbursement for traveling expenses is "confined to those expenses essential to the transacting of official business." See paragraphs 1-1.3b and 1-7.1a of the Federal Travel Regulations (FPMR 101-7) (May 1973). Under the above law only those expenses which are incurred in the transacting or performing of official business are reimbursable. Although FTR para. 1-7.5b(1) specifically provides for the continuation of per diem payments to a traveler who becomes ill or injured while on temporary duty, that authority does not extend to a traveling companion, a spouse or a friend who remains with the incapacitated employee. See B-174242, November 30, 1971.

The decision by Mr. Law to remain at his temporary duty station with his injured co-worker must be regarded as his personal choice notwithstanding that the injury occurred while enroute to the temporary duty site. His actions, though commendable, may not be characterized as essential to the transacting or performing of official business. See B-179818, supra.

Accordingly, Mr. Law's claim for reimbursement is denied and our Claims Division's determination is sustained.



Acting Comptroller General
of the United States