

*Quinn*

**DECISION**



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

*15698*

FILE: B-197928

DATE: December 10, 1980

MATTER OF: Frank Knight - Temporary Quarters Subsistence Expenses

*Claim for*

DIGEST: Employee transferred to permanent duty station. He is not entitled to temporary quarters subsistence allowance for quarters rented for period prior to being occupied as FTR para. 2-5.2a requires actual occupancy as a condition of eligibility.

*AGC00023*

This decision is in response to the request for an advance decision from May V. Smith, an authorized certifying officer of the Department of Housing and Urban Development (HUD), reference 9AF, regarding payment of the voucher of Mr. Frank Knight, an employee of HUD, for temporary quarters allowance claimed in connection with a permanent change of duty station.

The record indicates that Mr. Knight, pursuant to his transfer to San Francisco, California, leased an apartment on August 7, 1978, for a 1 year term beginning August 2, 1978. Mr. Knight began his residency in San Francisco on August 30, 1978, and he is claiming temporary quarters allowance for 29 days until August 30, 1978. Mr. Knight explained that the reason he did not occupy the apartment before August 30, 1978, was that the time was needed to schedule and effectuate the move from Chicago, his prior duty station. He also explained that the need to lease the apartment prior to his move was based on the shortage of available apartments, and the fact that the complex in which he rented informed him that only one apartment would be available for rental during the month of August 1978.

- ✓ 5 U.S.C. § 5724a (1976). The statutory provision has been implemented by the Federal Travel Regulations. These have the force and effect of law and are not to be waived, regardless of the circumstances.
- ✓ 54 Comp. Gen. 638, 640 (1975). Therefore, only those expenses which are expressly authorized by the statute and implementing regulations may be reimbursed.

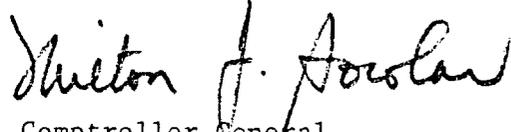
The record shows that, during the period August 2 through 29, 1978, neither Mr. Knight nor his family had moved to the new duty station in San Francisco. Consequently, they did not occupy the

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quarters for the period for which reimbursement is claimed. Federal Travel Regulations (FTR) (FPMR 101-7) para. 2-5.2a (May 1973) provides that subsistence expenses incident to a permanent change of station shall be allowed "\* \* \*while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 states\* \* \*." Since there was no occupancy from August 2 through 30, 1978, the regulations do not permit reimbursement of rent paid for that period. Walton V. Smith, B-186435, October 13, 1977. Further, Mr. Knight has stated that the apartment which he leased was not a temporary residence for him and therefore would not meet the definitional requirement of what constitutes temporary quarters found in FTR para. 2-5.2c.

The claim is denied.



For the Comptroller General  
of the United States