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DECISION



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

FILE: B-196904

DATE: December 12, 1980

[Claim for]

MATTER OF: Vincent Calderon - Additional Per Diem ^{were}
for Lodging Costs ^{when} Government Quarters Available [^]

ACC 00020

DIGEST: Civilian employee of Department of Army performing temporary duty assignments at several military installations is not entitled to the quarters portion of per diem allowance authorized by 5 U.S.C. § 5702(a) (1976), where adequate Government quarters were available but not used. It is assumed that adequate Government quarters were available, in absence of a statement by commanding officer responsible for Government quarters at temporary duty post that utilization of such quarters was impracticable.

The issue we are requested to decide is whether an employee on temporary duty travel can be authorized additional per diem for lodging costs when Government quarters were available but not used. This decision is in response to a request for an advance decision by Mr. Pasquale Orlando, Finance and Accounting Officer, Department of the Army, submitted here by the Per Diem, Travel and Transportation Allowance Committee, and assigned PDTATAC Control No. 79-37. Mr. Vincent Calderon, a civilian employee of the Department of the Army, has submitted a reclaim travel voucher seeking reimbursement of lodging costs which he incurred on January 20, 21, and 22, and February 10, 11, and 12, 1978, in Temple, Texas, while on temporary duty travel as a supervisor of a field calibration team. The claim may not be allowed.

The facts briefly stated are as follows: By Travel Order No. CTO-12-217, dated December 15, 1977, Mr. Calderon, an Electronic Technician, whose official station was in Pueblo, Colorado, was authorized to perform temporary duty consisting of calibration activities from his residence in Pueblo, Colorado, to several military installations in Texas, Oklahoma, Kansas, Colorado, and return. The travel order stated that receipts were required for all lodging, that all temporary duty personnel were to occupy

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Government quarters, and if Government quarters were not available, a certificate of nonavailability was required.

The record shows that Mr. Calderon departed from Temple, Texas, on January 20, 1978, at 7:30 a.m. He arrived at Camp Mabry, Texas, a distance of 60 miles, at 9:00 a.m. After performing temporary duty, he left Camp Mabry at 4:00 p.m., arriving in Temple, Texas, at 5:40 p.m., where he remained for the nights of the 20th, 21st, and 22nd.

On February 10, 1978, Mr. Calderon completed his temporary duty assignment at Fort Hood, Texas, at 3:30 p.m. He arrived in Temple, Texas, at 4:30 p.m. where he remained for the nights of the 10th, 11th, and 12th. His travel voucher shows that the distance between Temple, Texas, and Fort Hood, Texas, is 33 miles.

Mr. Calderon apparently submitted certificates of nonavailability for all nights of temporary duty travel except the six nights in question.

Section 5702(a) of title 5, United States Code (1976), provides that under regulations prescribed under section 5707, an employee, while traveling on official business away from his designated post of duty, is entitled to a per diem allowance for travel inside the continental United States.

✓ Paragraph C1055 of Volume 2, Joint Travel Regulations (ch. 146, effective October 1, 1977), states the conditions under which an employee may be reimbursed for occupation of commercial quarters:

"1. GENERAL. Although an employee may not be required to utilize Government quarters, when adequate Government quarters are available but not used, the payment of the quarters portion of the per diem or actual expense allowances of any employee on temporary duty away from his designated post of duty may not be made except under the following conditions:

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* * * * *

"2. [W]hen the commanding officer (or designated representative) responsible for Government quarters at the temporary duty or delay point furnishes a statement to the effect that utilization of Government quarters was impracticable. * * *.

* * * * *

"2. EFFECT OF ABSENCE OF STATEMENT. In the absence of a statement issued under the provisions of subpar. 1 or unless the nonavailability of adequate Government quarters can be ascertained by reference to a publication issued by the Uniformed Service concerned, it shall be assumed that adequate Government quarters were available on any day for which the employee fails to submit an appropriate statement * * * indicating that such quarters were not available or not utilized on that date. * * *" (Emphasis added).

In addition, section 853 of the Department of Defense Appropriation Act of 1978, Pub. L. No. 95-111, September 21, 1977, 91 Stat. 908, in effect at the time the travel here was performed, provides, in essence, that none of the funds appropriated by the Act to the Department of Defense for fiscal year 1978 are available to pay lodging expenses incurred by any person on official business away from his home or regular place of duty when adequate Government quarters are available, but are not occupied by such person.

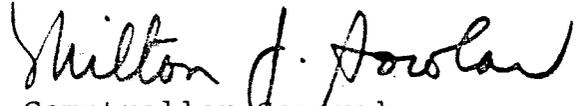
We are of the opinion that upon completion of his temporary duty assignment at Camp Mabry at 4:00 p.m. on January 20, 1978, Mr. Calderon should have obtained Government quarters for the weekend at Camp Mabry. Upon completion of his assignment at Fort Hood at 3:30 p.m. on February 10, 1978, the employee should have obtained Government quarters there for the weekend. Mr. Calderon's travel order clearly states that all temporary duty personnel were to occupy Government quarters and if such quarters were not available, a certificate of nonavailability was required.

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Paragraph C1055, Volume 2, JTR, as quoted earlier, allows the commanding officer, or his designee, at the temporary duty point to furnish a statement to the effect that utilization of Government quarters was impracticable. In the absence of such a statement, it is assumed that adequate Government quarters were available on any day for which the employee fails to submit an appropriate statement indicating that such quarters were not available or not utilized on that date.

Inasmuch as Mr. Calderon did not obtain the required statements of the nonavailability of Government quarters on the six dates in question, he is not entitled to per diem computed on the basis of the cost of commercial lodging expenses which he incurred. Jerry Cardinal, B-191297, August 2, 1979, and Ronald Miele, B-192271, November 8, 1978.

Accordingly, payment may not be made on the voucher submitted which is being retained in our files.



For the Comptroller General
of the United States