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DECISION



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

[Request for Review of Recoupment Action Resulting From Submission of Fraudulent Claim]

FILE: B-200838

DATE: April 21, 1981

MATTER OF: Department of Army Employee -
Fraudulent claim

DIGEST: An employee on temporary duty submitted fraudulent lodging receipts in excess of what he actually rented an apartment for. He states that since he did incur expenses incident to his temporary duty, recoupment against him for 46 days of per diem should be reduced by other expenses he incurred which would otherwise have been allowed. Since fraudulent lodging receipts covered 46 days, reduction of the recoupment against him is denied as a fraudulent claim for lodgings will taint all other aspects of the subsistence or per diem claimed for the day for which a fraudulent lodgings claim was submitted.

D. L. Swan, Disbursing Officer, Corps of Engineers, has forwarded an employee's request that the Comptroller General review recoupment action taken against him because of his submission of a fraudulent claim.

The record shows that the employee was sent on a temporary duty assignment from the Corps of Engineers Kansas City District to Mobile, Alabama, for the period from November 15, 1979, through January 29, 1980. At first, the employee lodged in a motel but for the period of December 3, 1979, through December 22, 1979, and January 2, 1980, through January 27, 1980, the employee stayed in an apartment. After being reimbursed for his temporary duty travel expenses, the employee was notified that the Corps of Engineers was recouping \$1,610 because the employee had submitted fraudulent lodging receipts. The \$1,610 represented per diem for 46 days at \$35 a day for the periods covered by the fraudulent lodging receipts, December 2 through 22, 1979, and January 2, through 27, 1980. The employee has repaid the \$1,610, but questions the recoupment as being excessive.

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The Corps of Engineers reports that while the rent and tax which the employee actually paid for the two periods in question were \$230.10 and \$198.30, respectively, a total of \$428.40, the employee obtained two additional receipts of \$381.60, and \$496.08, from the apartment manager and submitted those receipts to the Corps of Engineers as being the rental for his apartment. Thus, the daily rental charge on the dual receipts was improperly shown to be \$18 a day plus \$1.08 tax or a total of \$19.08 per day for a total of \$877.68. The employee was suspended for five days for submitting the false receipts.

In requesting that this Office review the recoupment action, the employee states that the investigative report on his case shows that he defrauded the Government of approximately \$452.09. He says, however, that aside from the \$428.40 he really paid for apartment rental, he also paid \$45.55 to the Alabama Power Co. for electricity. Thus he claims that the amount by which he falsely stated his claim should be \$403.73; i.e., \$877.68 (total amount of dual receipts) minus \$473.95 (amount paid for lodgings and electric bill). He continues that since he also paid \$108 for TV rental this amount should also be deducted from the total amount he falsely claimed from the Government. In addition, the employee lists other estimated expenses for linens, blankets, etc., and maid cleaning service performed by his wife based on a rate of \$4 per day.

The thrust of the employee's argument, therefore, is that since he did incur some otherwise reimbursable expenses, such expenses which may be shown to have been incurred by him should be allowed and recoupment should not be made for all 46 days of per diem.

This Office has long followed the rule that in cases in which a claim is thought to be fraudulent, the claim is of obviously doubtful validity and under

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the principles of Longwill v. United States, 17 Ct. Cl. 288 (1881), and Charles v. United States, 19 Ct. Cl. 316 (1884), the claim should be disallowed and the claimant left to his remedy in court. 41 Comp. Gen. 285 (1961). In this connection we have held that a fraudulent claim for lodgings will taint all other aspects of the subsistence or per diem claimed for the day for which a fraudulent lodgings claim was submitted. 59 Comp. Gen. 99 (1979). Because per diem under the lodgings-plus system includes all charges for meals, lodging and other expenses, a fraudulent representation of lodging costs taints the entire item of per diem for a given day. 59 Comp. Gen. at 101.

Since the false lodging receipts submitted by the employee covered his lodgings for 46 days, the per diem claim for the full 46 days is tainted and all of the per diem for those days was properly recouped. B-196364, January 6, 1981. The employee's request for a reduction in the amount recouped against him is denied.

Milton J. Arnold

Acting Comptroller General
of the United States