

DECISION

19253
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-201382**DATE:** August 26, 1981**MATTER OF:** Alexander Bell - Temporary quarters
subsistence expenses - Transfer to Alaska

- DIGEST:**
1. Employee who was transferred to Alaska sought additional temporary quarters subsistence expenses beyond initial 30-day entitlement under discretionary authority provided in 5 U.S.C. § 5724a(a)(3) (1976). In accordance with its established policy, agency denied extension based on finding that employee's voucher did not justify necessity for additional time in temporary quarters and there was no evidence that extension was required for reasons beyond employee's control or unique to particular area. Since it is the responsibility of the employing agency, in the first instance, to determine that subsistence expenses are necessary and reasonable, GAO will not challenge agency's determination unless arbitrary, capricious, or contrary to law.
 2. Transferred employee's claim for \$30 per day for temporary quarters while residing with sister-in-law at new duty station is denied. Where employee seeks reimbursement for temporary quarters occupied at home of friend or relative, his claim may not be paid where employee has not furnished information as to extent the friend or relative incurred additional expenses. The burden is on employee to supply necessary information supporting a claim and it is not sufficient to show merely that amount claimed is less than commercial rates or the maximum allowable rate.

Mr. Claude F. Pickelsimer, Jr., Director, Financial Management Office, Center for Disease Control, Public Health Service, Department of Health and Human Services, requests a decision concerning the propriety of paying temporary quarters subsistence expenses in the amount of \$933.15, reclaimed by Mr. Alexander Bell, an employee of the Center for Disease Control (CDC).

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Transferred from Memphis, Tennessee, to Anchorage, Alaska, Mr. Bell incurred the expenses in question over a 45-day period during which he stayed with his sister-in-law in Alaska for part of the time and spent the remainder of the time in his new residence. The CDC denied Mr. Bell's claim for those expenses because the agency standards which would justify an extension of the 30-day period allowed for temporary quarters were not met. Moreover, Mr. Bell did not furnish requested information concerning any additional expenses his sister-in-law may have incurred during his 30-day temporary stay. Finally, CDC disallowed part of the expenses because an employee may not be reimbursed for temporary quarters subsistence expenses after he begins to occupy a permanent residence.

We concur with the CDC's determinations and conclude that the agency has properly applied the Federal Travel Regulations and the decisions of this Office to the circumstances of Mr. Bell's claim.

Mr. Bell reported to his new duty station in Alaska on September 24, 1979, and was followed by his dependents who arrived on October 26, 1979. Mr. Bell sold his residence at his old duty station on October 18, 1979, and closed the purchase of a home at his new duty station on October 26, 1979. Mr. Bell and his family first occupied their new residence on November 3, 1979, although their household goods were not delivered until November 8, 1979. Mr. Bell claimed temporary quarters for a total of 45 days (September 25 through November 8, 1979) on his original voucher dated January 21, 1980. As revised by the agency, subsistence expenses were itemized totaling \$2,073.10, of which \$1,139.95 was approved for payment and the balance of \$933.15 was disallowed for the reasons outlined in the agency's Administrative Suspension Notice dated February 4, 1980. The suspension notice denied that part of Mr. Bell's claim for temporary quarters in the amount of \$30 per day for the period he temporarily resided with his sister-in-law as cost information was not provided. Reimbursement for subsistence expenses during the period from November 3 through November 8, 1979, was also denied as permanent quarters had been occupied. In order to maximize Mr. Bell's reimbursement, the agency established October 4 to November 3, 1979, as the allowable 30-day period.

Under 5 U.S.C. § 5724a(a)(3) (1976), an employee for whom the Government pays expenses of travel and transportation under 5 U.S.C. § 5724(a), may be reimbursed subsistence expenses for himself and his immediate family for a period of up to 30 days while occupying temporary quarters. When the employee moves to or from Alaska, the period of reimbursement may be extended for an additional 30 days. The regulations implementing 5 U.S.C. § 5724a(a)(3), are contained in the Federal Travel Regulations (FTR)(FPMR 101-7, May 1973), part 2-5. Specifically, section 2-5.2b reiterates the availability of an additional 30-day period when the transfer involves Alaska and the agency determines that such an additional period is necessary.

The CDC reports that, to insure that all employees are treated equitably, its policy is to give approval for extensions of time for occupancy of temporary quarters only when the extra time is required due to circumstances beyond the control of the employee which are unique to the particular area and which are distinguishable from transfers where the maximum time allowed is 30 days. Requests for approval of time beyond the initial 30-day period must be recommended by the travel order approving official and, after a determination is made that the additional time is necessary, the request is approved by the proper delegated authority. The CDC denied any extension of Mr. Bell's temporary quarters subsistence expense entitlement, finding that his original voucher did not justify the additional time in temporary quarters and that there is no evidence that the additional time was required for reasons beyond his control or unique to Alaska.

In support of the reclaim are letters dated February 25 and April 14, 1980, and a memorandum dated August 1, 1980, from Mr. Bell in which he explains that his lodging from September 25 through October 24 was at the residence of his sister-in-law, and that the \$30 per day he paid to his sister-in-law was reasonable compared to available commercial facilities, especially in view of the fact that he used her automobile and otherwise inconvenienced her. Although Mr. Bell has not provided a statement showing what, if any, additional expenses his sister-in-law may have incurred, he has provided receipts from her which show that he did pay her a rental fee of \$30 per day during the period in question. Mr. Bell further explains that expenses for meals were claimed for November 3 through November 8, 1979, because the family moved into their new home before their

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household goods arrived, and therefore did not have the means to prepare meals which necessitated taking them outside the residence.

FTR para. 2-5.4a authorizes temporary quarters reimbursement only for the actual subsistence expenses incurred, provided they are incident to the occupancy of temporary quarters and are reasonable as to amount. It is the responsibility of the employing agency, in the first instance, to determine that subsistence expenses are reasonable in light of the circumstances of each individual case. Jesse A. Burks, 55 Comp. Gen. 1107, 1110 (1976). Where the agency has exercised that responsibility, the General Accounting Office will not substitute its judgment for that of the agency, in the absence of evidence that the agency's determination was clearly erroneous, arbitrary, or capricious. Jesse A. Burks, *supra*, and Thomas O. Voglesonger, B-196030, December 11, 1979.

Mr. Bell's claim for subsistence expenses for the period November 3 through November 8, 1979, must be denied. In an attempt to maximize Mr. Bell's reimbursement, the agency approved payment for the 30-day period from October 4, 1979, to November 3, 1979, the date on which Mr. Bell and his family moved into permanent residence quarters. We have consistently held that an employee may not be reimbursed subsistence expenses during the period he occupied the residence in which he intends to remain, even in the absence of household effects which arrive at a later date. That such occupancy results in savings to the Government may not serve as a basis for holding otherwise. Jack Carson, B-191626, November 20, 1978.

Finally, Mr. Bell's claim for \$30 per day while he temporarily resided with his sister-in-law may not be allowed. Section 2-5.4 of the FTRs limits reimbursement to actual expenses not exceeding the prescribed maximums and provides that they must also be reasonable as to amount. While reimbursement for charges for lodging and related services supplied by relatives may be allowable, we have consistently held that what is reasonable depends upon the circumstances in each case. We have stated that, in determining what is reasonable, factors such as an increase in the use of the host's utilities, the hiring of extra help, and other costs incurred by the relative must be taken into consideration.

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The burden is on the claimant to provide sufficient information to enable the employing agency to determine the reasonableness of his claim, and it is not enough to show merely that the amount is less than the commercial rate or the maximum allowable rate under the regulations. See Gloria Dale Lewis, B-195609, December 5, 1979; Richard Metzler, B-191673, December 5, 1978; and see also James W. Clark, B-193331, April 25, 1979, and decisions cited therein.

Since Mr. Bell has failed to provide the required supporting information requested by the agency, and since transportation expenses incurred as a result of increased use of a host's automobile are precluded by paragraph 2-5.4(b) of the FTRs, this portion of Mr. Bell's reclaim may not be paid on the basis of the present record.

Mr. Bell does not challenge the legal basis upon which the agency acted in disapproving portions of his original voucher, but stresses that his expenses were reasonable and justified by the circumstances. Further, Mr. Bell states his belief that the regulations relied upon to deny him additional reimbursement "are counterproductive and defy common sense." Mr. Bell also believes that the regulations do not reflect the realities which a transferred employee must face.

We disagree. The regulations are not arbitrary, capricious, or contrary to law. Their requirements are clear and they are clearly applicable to the facts in question here. Thus, even though the circumstances may have been beyond the employee's control, we find no basis upon which to justify payment of additional expenses.

Accordingly, the reclaim voucher may not be certified for payment.


Acting Comptroller General
of the United States