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DECISION



20366
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-202692

DATE: December 23, 1981

MATTER OF: Daniel B. Peyser

DIGEST: Where employee attends luncheon paid for by Government while on travel to high rate geographical area, his reimbursement for actual subsistence expenses, otherwise limited to \$45, should be reduced by the value of lunch furnished by Government.

Mr. Daniel B. Peyser, an employee of the U.S. Metric Board, appeals the Claims Group's denial of his claim for additional travel expenses incident to temporary duty. Specifically, Mr. Peyser appeals the Claims Group's determination that he is not entitled to an additional \$9.15 actual subsistence expense reimbursement. The \$9.15 was the cost of a workshop luncheon attended by Mr. Peyser. Because the cost of that luncheon was paid by the Metric Board the agency reduced the \$45 limitation on his actual subsistence expense reimbursement for that day by the amount of \$9.15. We concur with the action of the Claims Group in sustaining the Metric Board's disallowance of Mr. Peyser's claim.

According to the record, Mr. Peyser performed temporary duty in Nashville, Tennessee, a high rate geographical area, from September 23 to September 25, 1980. His travel orders, among other things, authorized him actual subsistence expenses up to \$45 a day.

On September 24, 1980, the claimant indicates that his official duties required him to attend a workshop luncheon. When Mr. Peyser claimed his actual expenses for September 24, he was informed that his reimbursement was reduced by the cost of the luncheon. Specifically, he was told that the luncheon was paid for by the U.S. Metric Board out of appropriated funds and thus the amount (\$9.15) had to be deducted from his maximum entitlement of \$45. He was reimbursed \$35.85. Since his expenses for September 24, even without lunch, were \$60.07, Mr. Peyser seeks payment of the withheld \$9.15.

The Claims Group, relying on 42 Comp. Gen. 549 (1963), informed Mr. Peyser that an appropriate deduction from his actual subsistence expense reimbursement was required for the luncheon since it was paid for by the Government.

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Mr. Peyser appeals stating that the Claims Group's determination is "against the weight of opinion and precedent in the subject." It is Mr. Peyser's position that a reduction in reimbursement, while appropriate for an employee receiving per diem, is improper for one receiving actual subsistence expenses.

We cannot agree with Mr. Peyser's view. The precedent to which he refers is our decision, 9 Comp. Gen. 363, 365 (1930). In that case we held that an employee receiving actual subsistence expenses who is furnished meals without charge "is entitled within the prescribed limit for actual expenses only to other authorized subsistence expenses incurred." That decision addressed the appropriate treatment of meals furnished by friends or family of the employee. It did not deal with meals furnished or otherwise paid for by the Government.

As indicated in 60 Comp. Gen. 181 (1981), the statutory limitations on per diem rates and actual expense rates are applicable regardless of whether the Government reimburses the employee or otherwise pays for meals or lodgings furnished without direct cost to the employee. Paragraph 1-7.6f of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) relied on in that decision requires an appropriate deduction from the authorized per diem rate "where meals or lodgings" are furnished without charge or at a nominal cost by a Federal Government agency at a temporary duty station. As evidenced by our reference in 42 Comp. Gen. 549 to the substantially identical language of paragraph 6.7 of the Standardized Government Travel Regulations, then in effect, meals paid for by the Government as part of the cost of a meeting or conference are considered to be meals furnished without charge by the Government.

Actual expenses are payable under FTR chapter 2, Part 8, when an employee is entitled to per diem and the maximum per diem would be inadequate to cover the employee's expense of travel. While the regulations at Part 8 do not contain a specific provision comparable to FTR para. 1-7.6f, they do make it clear that expenses which may not be reimbursed as part of the per diem allowance are not reimbursable as actual subsistence expenses. Paragraph 1-8.2b of the FTR specifically provides: "Actual subsistence expense reimbursement shall be allowed for the same type of expenses

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normally covered by the per diem allowance under the provision of [FTR, para.] 1-7.1b." Consistent with these regulations and with the required reduction in per diem under the circumstances, we held at 60 Comp. Gen. 181, 184 that no reimbursement may be made for meals or lodgings furnished by the Government to an employee on actual subsistence expenses. To agree with Mr. Peyser's argument that he should be reimbursed his actual expenses not in excess of \$45 without regard to the fact his lunch was provided at a cost of \$9.15 to the Government would be to sanction reimbursement of his actual expenses in excess of the statutory limitations.

For the reasons stated above, our Claims Group's determination is sustained.

Harry R. Van Cleave
For Comptroller General
of the United States