

117756

21072

**DECISION**



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

**FILE:** B-201887

**DATE:** March 10, 1982

**MATTER OF:** Captain Philip W. Holden, USA

**DIGEST:** An Army officer whose travel orders directed him to commute daily from his residence to certain temporary duty stations near his permanent station is not entitled to partial per diem for one meal he purchased each day at the temporary duty stations. The fact that he may have had to stop at his permanent station each day en route to the temporary duty stations did not change the fact that the travel was commuting for which per diem is not authorized.

This action is in response to a request for an advance decision concerning payment of travel per diem to an Army officer who commuted daily from his residence to his temporary duty assignments. As is explained below, in the circumstances presented he is not entitled to per diem.

The request was submitted by the Finance and Accounting Officer, 18th Finance Section, Headquarters V Corps, United States Army, Europe. It has been assigned Control Number 81-17 by the Per Diem, Travel and Transportation Allowance Committee.

The officer involved, Captain Philip W. Holden, USA, whose permanent duty station was Frankfurt, West Germany, was ordered to perform repeated temporary duty at various locations during the period of February 1 through March 2, 1979. The travel orders authorized use of privately owned vehicle with payment of a mileage allowance, when Government transportation was not available, and payment of per diem in accordance with the Joint Travel Regulations. The orders also directed the member to commute daily if the temporary duty point was within a 30-mile radius of the home station, and required that Government facilities and lodging be used to the maximum extent.

Under these orders, Captain Holden performed temporary duty at several places including military

installations at Hanau and Wiesbaden, West Germany. He was paid the mileage allowance for his travel and per diem for parts of the traveltime. However, the Finance Officer has declined to pay the partial per diem claimed for one meal purchased each day during 7 days of temporary duty at Hanau and 3 days at Wiesbaden. On each of those days Captain Holden traveled from his residence via his permanent station (Frankfurt) to the temporary duty point and return. The distance from Frankfurt to Hanau was 13 miles and from Frankfurt to Wiesbaden was 24 miles. Thus, the Finance Officer considers that during these periods Captain Holden was commuting between his residence and temporary duty stations for which the applicable regulation precludes payment of per diem.

The Army Finance Center advises that because Captain Holden traveled from his residence to his permanent station each day, to pick up certain materials, and then on to the temporary duty stations rather than directly there, he should not be considered commuting. However, the Per Diem, Travel and Transportation Allowance Committee indicates that they interpret the regulations in the same manner as the Finance Officer, and the fact that Captain Holden traveled via his permanent station does not change the travel from being commuting.

Pursuant to 37 U.S.C. §§ 404 and 405 (1976), per diem is authorized for uniformed service members in amounts and under conditions prescribed in Volume 1, Joint Travel Regulations (1 JTR). At the time in question in this case, 1 JTR paragraph M4250-16 (change 309) precluded entitlement to per diem for officers commuting, as follows:

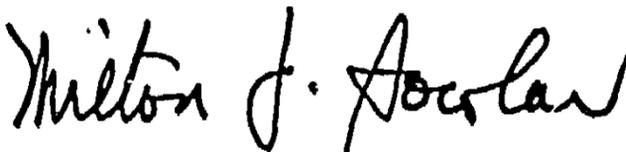
"TEMPORARY DUTY NEAR PERMANENT DUTY STATION. No per diem allowance is payable for temporary duty performed away from the member's permanent duty station at a place to which he commutes daily from his permanent quarters. The term 'permanent quarters' includes \* \* \* the quarters or residence from which he usually commutes to his permanent duty station. \* \* \*"

B-201887

Clearly, under this provision an officer, such as Captain Holden, is entitled to no per diem if he commutes daily from his permanent quarters to the temporary duty station.

In this case we do not view the fact that Captain Holden stopped at his permanent station each day en route to his temporary duty as affecting his entitlement. His travel orders clearly directed him to commute daily to these relatively nearby locations. Thus, it appears that the order-issuing authority considered the circumstances of the travel, the expenses the member would likely incur, and issued the orders accordingly under which per diem would not be payable for the travel in question. Compare B-184175, August 5, 1975.

Therefore, payment may not be made and the voucher submitted will be retained in our Office.

*for*   
Comptroller General  
of the United States