

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548LNZZO  
23597**FILE:** B-195691**DATE:** November 16, 1982**MATTER OF:** Lieutenant William R. Miller, United States  
Coast Guard Reserve**DIGEST:** A Coast Guard member without dependents on temporary additional duty is not entitled to a basic allowance for quarters when he is assigned to sea duty for a period of 3 months or more. See 37 U.S.C. 403(c) (1976).

The issue is whether a member of the United States Coast Guard is entitled to receive payment of basic allowance for quarters as a member without dependents for the period he was assigned to temporary additional duty on board a United States vessel away from his permanent duty station. For the reasons stated below the basic allowance for quarters at the without dependent rate may not be paid for the period in question.

This action is the result of an appeal by Lieutenant William R. Miller, USCGR, of a settlement of our Claims Group denying his claim for basic allowance for quarters for a period of sea duty in excess of 3 months.

Lieutenant Miller is permanently stationed at the Coast Guard Aviation Training Center, Mobile, Alabama. He was assigned to temporary additional duty aboard the U.S.C.G.C. Polar Star (WAGB 10). His orders stated that the duration of the temporary additional duty was for an indeterminate period. Although Lieutenant Miller claims he expected to be at sea only 74 days, and thus not lose entitlement to the basic allowance for quarters, the actual duration of his sea duty was 92 days, causing the termination of the allowance pursuant, to 37 U.S.C. 403(c).

Lieutenant Miller states that an emergency situation caused him to be ordered aboard the ship 18 days earlier than the originally scheduled departure date of February 15, 1980. As a result he had insufficient notice to sell or lease his home. Lieutenant Miller claims the denial of basic allowance for quarters is a hardship because he bears the expenses of maintaining the home at his permanent station whether or not he is on temporary additional duty.

Under 37 U.S.C. 403(c), in effect at the time of the duty here involved, a member of a uniformed service without dependents is not entitled to a basic allowance for quarters while he is on sea duty. That subsection also provides that duty for a period of less than 3 months is not considered to be sea duty.

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Executive Order 12094, November 1, 1978, amended Executive Order 11157, June 22, 1964, by defining "sea duty" as service performed by either an officer or enlisted man in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities.

Lieutenant Miller, in effect, advances the view that his situation should be controlled by section 405, of Executive Order 11157, which provides that a member away from his permanent station may occupy quarters of the United States designated for members without dependents at his temporary duty station without affecting his right to receive payment of basic allowance for quarters or assignment of quarters, if any, at his permanent station.

This position ignores the fact that the Congress specifically provided that a basic allowance for quarters may not be paid to a member without dependents while he is on sea duty. Additionally, the Congress contemplated short periods of less than 3 months on sea duty as not affecting a member's entitlement to the allowance. However, when sea duty extends over 3 months the allowance may not be paid. In 59 Comp. Gen. 192 (1980), we pointed out that the limitation in 37 U.S.C. 403(c) applies to temporary as well as permanent duty and that the crucial factor is the length of the assignment not whether it is characterized as permanent or temporary.

While it is unfortunate that the exigencies of the service resulted in an extension of Lieutenant Miller's period of temporary additional duty, we have no alternative but to deny his claim under the law and regulations in effect at the time he performed the duty.

*for*   
Comptroller General  
of the United States