

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548DUNN
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FILE: B-198026

DATE: March 24, 1983

MATTER OF: Henry W. Whitley - Temporary Quarters -
Subsistence Expenses - Reconsideration**DIGEST:**

Employee, who was transferred from Greenville, Mississippi, to Dyersburg, Tennessee, moved into a residence under construction in Dyersburg which he had contracted to buy and which he subsequently did buy. Even though he did not incur househunting trip and temporary storage expenses, the fact that there may have been a savings to the Government is no basis to allow employee reimbursement for temporary quarters subsistence expenses incurred while living in the house he bought, even though incomplete, since those quarters were not temporary.

This is in response to a letter of December 6, 1982, from Mr. Henry W. Whitley, which was forwarded to our Office by a congressional source, requesting reconsideration of our decision Henry W. Whitley, B-198026; June 11, 1980, which disallowed his claim for temporary quarters subsistence expenses because the employee occupied permanent quarters. For the reasons stated below we sustain our prior decision.

FACTS

Mr. Whitley was transferred from Greenville, Mississippi, to Dyersburg, Tennessee, pursuant to orders effective October 24, 1979, and was authorized relocation expenses including 30 days temporary quarters allowance. Upon arriving at his new duty station, Mr. Whitley made arrangements to purchase a home which was still under construction. At that time only the bedroom facilities had been completed; however, the contractor agreed to allow Mr. Whitley to move in with his furniture at no charge until construction was completed to the point where it would be feasible for his family to also occupy the house.

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Mr. Whitley apparently recognizes that expenses for temporary quarters which become permanent are generally not reimbursable. However, he believes his situation warrants payment as he saved the Government money because he did not incur househunting expenses and temporary storage costs.

OPINION

Section 5724a(a)(3), of Title 5, United States Code (1976), is the statutory provision providing for reimbursement of temporary quarters subsistence expenses. Paragraph 2-5.2c of the Federal Travel Regulations, FPMR 101-7 (May 1973), implementing the statute, defines temporary quarters as:

"* * * any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

We have consistently held that the determination of the type of residence occupied i.e., temporary or permanent, is based on the intent of the employee at the time he or a member of his family moves into the quarters which later become his permanent residence. Douglas D. Mason, B-196284, August 14, 1980. When an employee moves into a house he has decided to purchase, even though final settlement for the house has not yet taken place, he has ceased to occupy temporary quarters. This is so even though the occupancy of the purchased quarters results in a savings to the Government. Douglas D. Mason, above; Edwin Bosaw, B-201861, April 1, 1981. As was pointed out in our decision of June 11, 1980, concerning this matter, this is true regardless of the fact that the residence still may be under construction and unsuitable for occupancy. Richard E. Hoffman, B-197958, March 31, 1980, and decisions cited therein. Thus, it is clear that Mr. Whitley intended to make the dwelling his permanent residence, and temporary quarters subsistence expenses cannot be authorized.

Accordingly, our decision of June 11, 1980, is affirmed.

for 
Comptroller General
of the United States