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DECISION

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

FILE: B-219177 **DATE:** December 19, 1985

MATTER OF: Ruth J. Ruby - Claim for Luncheon Cost at Training Conference

DIGEST:

Employee was invited to speak at luncheon session of agency training program at her duty station, and she seeks reimbursement of cost of luncheon. Cost of luncheon may be paid under 5 U.S.C. § 4110 since the record indicates that (1) the meal was incidental to the training program, (2) attendance at the meal was necessary for full participation in the meeting, and (3) the attendees were not free to take their meals elsewhere. Gerald Goldberg, et al., B-198471, May 1, 1980.

ISSUE

The issue in this decision involves the claim of an employee for the cost of a luncheon at her official duty station which was part of an agency training program. We hold that although meal costs normally may not be paid at the employee's official duty station, this expense may be paid as a necessary training expense under the circumstances presented.

BACKGROUND

This decision is in response to a request from Mr. Donald C. Sutcliffe, Regional Commissioner, Seattle Region, Social Security Administration (SSA), reference SDX71:FF-5. The request concerns the claim of an SSA employee, Ms. Ruth J. Ruby, for reimbursement of luncheon expenses incurred while she was a guest speaker at an agency training class held within the vicinity of her official duty station.

The agency request states that in September 1984, the agency held a training class in the Seattle area for SSA Operation Supervisors, and Ms. Ruby was invited as a guest speaker for the opening day luncheon. Ms. Ruby later

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claimed reimbursement for the cost of the lunch ($9), but payment was denied on the basis that subsistence expenses are not reimbursable within 35 miles of the employee's official duty station. In an earlier memorandum, the certifying officer also questioned (1) whether providing meals was necessary to achieve the objectives of the training program, and (2) whether the luncheon agenda could be rescheduled to provide the trainees with an "ordinary lunch break."

Ms. Ruby contends that the training course, Basic Supervisory Concepts, is part of the agency's internal training program under the Government Employees Training Act, 5 U.S.C. §§ 4101-4118 (1982), and the "Role of the Supervisor" lesson, presented during the lunch period, is a required part of this training course. She states that the students are not free to take the meals elsewhere without being absent from an essential portion of the training program. Finally, she argues that the course is "very tightly structured," and she implies it would be difficult to reschedule the luncheon agenda to another portion of the training session.

OPINION

As the certifying officer pointed out, we have long held that an employee may not be paid per diem or actual subsistence expenses at the official duty station since those expenses are considered to be personal to the employee. See 53 Comp. Gen. 457 (1974), and Federal Travel Regulations, para. 1-7.6a, incorp. by ref., 41 C.F.R. § 101-7.003 (1984).

On the other hand, meals during meetings at the official duty station may be paid where the registration fee for the meeting is paid under the training statute, 5 U.S.C. § 4110 (1982), and the meals are included in the fee at no additional charge and represent an incidental part of the meeting. See 50 Comp. Gen. 610 (1971); 48 Comp. Gen. 185 (1968); and 39 Comp. Gen. 119 (1959).

Where the meals are not included in a registration fee for attendance at the meeting and a separate charge is made, our decisions require that three conditions be met for payment. Those three conditions are (1) the meals must be

incidental to the meeting, (2) attendance at the meal must be necessary to full participation in the meeting, and (3) the employee may not be free to take meals elsewhere without being absent from the essental business of the meeting. Gerald Goldberg, et al., B-198471, May 1, 1980.

In the present case, Ms. Ruby argues that all three conditions outlined in the Goldberg decision have been met in this situation, and there is no conclusive evidence from the certifying officer or other agency officials to the contrary. We note that there was no registration fee required in this case since this was an internal agency training program, but, in cases decided prior to Goldberg, we have allowed agencies to pay meal costs for internal training programs under similar circumstances. See B-193955, September 14, 1979; and B-193034, July 31, 1979.

The situation in the present case is clearly distinguishable from cases involving agency meetings with working lunches or dinners at the official duty station which were not organized under the training statutes and for which payment was denied. See J. D. MacWilliams, B-200650, August 12, 1981; Frank W. Kling, B-198882, March 25, 1981; and B-180806, August 21, 1974. Similarly, we have denied reimbursement to employees attending Federal Executive Association meetings, Combined Federal Campaign luncheons, or an agency-sponsored labor relations luncheon at their official duty stations where reimbursement is not authorized under 5 U.S.C. § 4110, and where meals were not incidental to the meetings. See Pope and Ryan, B-215702, March 22, 1985, 64 Comp. Gen. 406; Sandra L. Ferguson, et al., B-210479, December 30, 1983; Henry C. DeSeguirant, B-202400, September 29, 1981; Gentry Brown, et al., B-195045, February 8, 1980; and B-160579, April 26, 1978.

Accordingly, in the absence of evidence contrary to the statements offered by the employee, we conclude that the employee may be reimbursed for the cost of the luncheon as a necessary training expense.

Milton J. Socolar

Acting Comptroller General
of the United States