



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Blaine C. Richardson - Home Service Transfer
Allowance Eligibility
File: B-223644
Date: November 28, 1986

DIGEST

Foreign Service Officer with Agency for International Development authorized to travel from Naples, Italy, to Washington, D.C., in June 1982, was authorized a home service transfer allowance (HSTA) covering the period of his stay in Washington, D.C., in contemplation of further reassignment to an overseas post. Employee may be paid HSTA for the period his dependents stayed in Ocean City, Maryland, limited to the maximum allowable period of 30 days and computed on the basis of the statutory per diem rate of \$50.

DECISION

The Chief, Employees Service Division, Office of Financial Management, Agency for International Development (AID), requests a decision interpreting the home service transfer allowance (HSTA) for Mr. Blaine C. Richardson, a former AID Foreign Service Officer. We conclude that Mr. Richardson may be paid a HSTA for the period his dependents stayed in Ocean City, Maryland, limited to the maximum allowable period of 30 days and computed on the basis of the statutory per diem rate of \$50.

Mr. Richardson was authorized to travel from Naples, Italy, to Washington, D.C., in June 1982 in contemplation of further reassignment to an overseas post. Since there was uncertainty about where Mr. Richardson would be assigned he was authorized a HSTA covering the period of his stay in Washington, D.C. In submitting the case to our jurisdiction, Mr. Richardson reported by letter dated August 27, 1986, that he relied on the advice of his "backstop officer" in securing temporary quarters since his permanent home of record was under lease for another year, and his family of five had moved into a hotel across from the State Department in Washington. Mr. Richardson inquired of his backstop officer whether his HSTA could be used to rent a house or an

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apartment in Ocean City, Maryland, while he remained in Washington "waiting out the job situation" and commuted to and from Ocean City on the weekends. The agency authorized and approved this arrangement, and since Ocean City was classified as a high rate geographical area with a maximum daily subsistence rate of \$75, the agency personnel office used the \$75 rate in advancing funds to Mr. Richardson and his dependents under the HSTA.

In final settlement of Mr. Richardson's advance of \$4,688.75 the agency disallowed \$3,656.25, finding that the maximum daily rate applicable for Mr. Richardson's HSTA should have been \$50. In addition, the qualifying period was reduced based on a finding that Ocean City was not within the Washington, D.C., duty station, and, therefore, did not qualify for the HSTA payable at the employee's "post" as required by applicable regulations. Mr. Richardson counters that he acted on the agency's advice and the later determination to approve only \$1,032.50 of his HSTA claim is inconsistent with that advice.

Subchapter III of Chapter 59, Title 5, U.S.C., authorizes payment of overseas differentials and allowances designed to compensate employees for costs associated with relocations to or from overseas posts of duty. The HSTA payable under 5 U.S.C. § 5924(2)(B) and Chapter 250, Standardized Regulations (Government Civilians/Foreign Areas) (SR) applies to employees between assignments to foreign areas for whom transfer back to the United States is just another in a series of transfers. The HSTA is intended to partially compensate employees for relocation costs and is composed of three elements: (1) a miscellaneous expense portion, (2) a wardrobe expense portion, and (3) a temporary lodging portion for lodging upon arrival in the United States for up to 30 calendar days.

Our first concern is with the duration of Mr. Richardson's entitlement to the HSTA. The record does not disclose how many days during the period of time Mr. Richardson was awaiting his new assignment that the allowance was paid and Mr. Richardson indicates that he submitted a voucher for expenses covering the "3-month period the allowance was in effect." SR § 252.22 limits the payment of the HSTA to 30 calendar days, and, on the basis of the wording of the regulation, it is clear that the subsistence portion--including temporary lodging--of the HSTA is limited to 30 days. William P. Hubbard, B-215362, October 1, 1984. This authority is not subject to waiver, exception, or

extension by the agency on a case-by-case basis. Teresita G. Bowman, B-212278, September 2, 1983. Accordingly, Mr. Richardson's HSTA entitlement is limited to the 30-day term prescribed by regulation.

We consider now whether Mr. Richardson may be reimbursed for lodgings at Ocean City and then the dollar-amount limitation on that reimbursement. The agency questions whether the definition of "post" in SR § 040h--which means "the place designated as the official duty station of the employee" and at which the HSTA may be authorized under SR § 252.22--may be expanded to include Ocean City since Mr. Richardson was temporarily assigned at Washington, D.C.

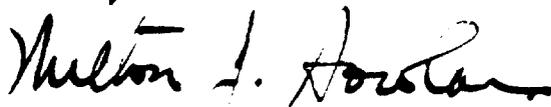
At the outset, we note that the definition of "post" in SR § 040h allows for expansion since the place designated applies whether the employee is detailed elsewhere or "resides at another place" with authorization or approval. In this case Mr. Richardson had obtained prior approval from his "backstop officer." Further, we have liberally construed the "vicinity" of the official duty site to include certain accommodations to an employee's comfort and convenience where mission requirements have not been jeopardized and where reimbursement is limited to the expense entitlement associated with the official duty site. Thus, in Hugh R. Carlon, B-194256, September 17, 1979, we held that an Army employee on temporary duty to Slough, England, who resided in Cowley rather than Slough, could be reimbursed for his per diem under the Joint Travel Regulations limited to the rate for Slough. Since Cowley was within the greater vicinity of the temporary duty site, there would be no objection to reimbursing the employee limited to the per diem rate applicable to the temporary duty site. In an analogous case construing temporary quarters subsistence expenses (TQSE) payable under 5 U.S.C. § 5724a(a)(3) (1982), and the Federal Travel Regulations, an employee transferred from London to Fort Meade, Maryland, where he and his family stayed in a motel for 8 days in Laurel, Maryland, following which his wife and three children moved into an apartment in Rehobeth Beach, Delaware, while the employee stayed in Laurel. We allowed the family's TQSE in Rehobeth since the family's stay there was directly related to the employee's transfer and to their need to occupy temporary quarters, and since it did not appear that the family was merely planning a vacation. Henry J. Kessler, R-185376, July 23, 1976.

We believe that the decisions discussed above apply to Mr. Richardson's claim for HSTA. The Richardsons' stay in

Ocean City was directly related to Mr. Richardson's transfer and to their need to occupy temporary quarters. We recognize that the HSTA is only designed to defray the unusual expenses incident to the assignment to the United States between assignments in foreign areas, and the Government should not have to bear any additional costs associated with vacation accommodations away from the employee's post. Here, however, since both Washington, D.C., and Ocean City, Maryland, are categorized as high-rate geographical areas with equivalent expense rates, and since, as stated below, Mr. Richardson's reimbursement is limited by the statutory per diem rate of \$50 per day, we believe that the Government loses nothing by accommodating Mr. Richardson's choice of a temporary lodging location in this case.

Since Washington, D.C., and Ocean City, Maryland, are both high-rate geographical areas, the agency erroneously advised Mr. Richardson that the temporary quarters portion of his HSTA expense reimbursement should be based on the high-cost rate, rather than the statutory per diem rate. However, SR \$ 942.2 clearly limits the HSTA payment to the \$50 daily maximum per diem rate established by 5 U.S.C. § 5702.

Accordingly, Mr. Richardson may be reimbursed for 30 days' HSTA for himself and his dependents computed on the basis of the \$50 maximum statutory per diem rate authorized by § 942.2 of the SR.



Acting Comptroller General
of the United States