



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Jimmie D. Savett - Travel and Lodging Expenses -
Validity of Claim
File: B-223277
Date: December 8, 1986

DIGEST

1. Agency denied an employee's claim for subsistence expenses, determining that he had misstated his motel expenses because the payments recorded on his receipts were higher than those entered into the motel records. We find that the agency's evidence is insufficient to establish fraud on the part of the employee, and since the motel records contained matching receipts to his, as well as others that were both higher and lower, he may be reimbursed for his entire lodging claim.

2. Agency denied an employee's claim for subsistence expenses, determining that he claimed lodging expenses for a weekend when he in fact went home. We find that the agency's evidence is insufficient to establish fraud on the part of the employee, and the record indicates he paid for the lodging in advance and admits he returned home to care for his sick wife. His reimbursement should be computed using a constructive cost basis.

DECISION

This decision is in response to a request from the Chief, Finance and Accounting, Buffalo District, Corps of Engineers. It concerns the entitlement of one of its employees to be reimbursed certain expenses incident to temporary duty travel performed in 1980. We conclude that he may be reimbursed for the following reasons.

BACKGROUND

In October 1983, a Fraud Detection Task Force was organized by the U.S. Army Criminal Investigation Command to conduct an investigatory review of temporary duty travel expenditures made by personnel of the Buffalo District of the Corps of Engineers. As a result of that investigation, a number of civilian employees of the Corps of Engineers, Buffalo

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District, were charged with having submitted false travel vouchers. One such individual was Mr. Jimmie D. Savett.

Two travel vouchers submitted in 1980 by Mr. Savett were challenged on the basis that certain of the lodging receipts which accompanied his vouchers were improper. The asserted facts are as follows:

1. In connection with authorized travel from Cleveland, Ohio, to Lorain, Ohio, and to Huron, Ohio, and return, Mr. Savett stayed at the Plantation Motel in Huron, Ohio, from the afternoon of April 17 until midday on April 23, 1980, a total of 6 nights. He submitted three motel receipts in the amount of \$56.43, \$37.62 and \$18.81, for a total of \$112.86 (\$18.81 a day). The U.S. Army Criminal Investigation Division (CID), as part of their efforts, reviewed the motel's receipt book. While they found the copies of the receipts Mr. Savett submitted with his travel voucher, they also found copies of additional receipts made out to Mr. Savett in lesser amounts, totaling \$89.82, for the same period. Based on that and a conversation that the CID investigator claims to have had with Mr. Savett following that discovery, it was concluded that he had been overpaid \$23.04 and should be charged with fraud. -
2. In connection with authorized travel from Cleveland, Ohio, to Ashtabula, Ohio, and Erie, Pennsylvania, and return, Mr. Savett stayed at the Erie Motel. He submitted lodging receipts totaling \$267.12 for 14 nights (\$19.08 a night). Even though he had lodging receipts to cover the entire period, the CID obtained evidence that he did not stay at the motel on the evening of Friday, June 6, Saturday, June 7, and Sunday, June 8, 1980. When confronted with this information, Mr. Savett asserted that he had paid for the weekend in advance, but contended that he had to return home that Friday evening because his wife was ill and did not return to the Erie Motel until Sunday evening. The submission states that had Mr. Savett informed the District that he had returned home for the weekend, and the reasons for doing so when he submitted his travel voucher, he might have been reimbursed for all or part of his expenses under voluntary return travel. However, since he did not correctly report that travel the agency concluded that the reimbursement for those 3 days are suspect and he should be charged with fraud.

Following these recommendations, Mr. Savett was ordered suspended for 6 days in a nonpay status. Upon notice of that suspension, Mr. Savett filed a grievance challenging the validity of such proposed suspension. On May 28, 1985, the grievance was decided in his favor. On July 19, 1985, the grievance finding was sustained, stating that the evidence of fraud was inconclusive, thus, not proven. It was ordered that a letter of reprimand be placed in Mr. Savett's personnel file in lieu of the 6-day suspension. It was also ordered that Mr. Savett be made whole, with the additional recommendation that the matter be submitted here for decision.

Based on the foregoing, the following questions are asked.

1. Should Mr. Savett be reimbursed for lodging at the Plantation Motel?
2. Should Mr. Savett be reimbursed his lodging over the weekend he went home when he first stated that he stayed at the Erie Motel over the weekend?
3. Should Mr. Savett be reimbursed for the remainder of his 2 weeks at the Erie Motel, or does the fact that part of the claim was suspect taint the entire 2 weeks?

OPINION

This Office does not conduct hearings on allegedly fraudulent claims, but relies solely on evidence contained in the written record. 4 C.F.R. § 31.7 (1986). In deciding whether the written record establishes fraud which will support either the denial of a claim or recoupment action in the case of a paid voucher, our Office has held that the burden of establishing fraud rests upon the party alleging it. Further, the fraud must be proven by evidence sufficient to overcome the existing presumption of honesty and fair dealing. Where the evidence is circumstantial, it is competent only if it affords a clear inference of fraud and amounts to more than mere suspicion or conjecture. If, however, the circumstances are as consistent with honesty and fair dealing as with dishonesty, the inference of honesty is required to be drawn. Civilian Employee of the Department of the Air Force, 60 Comp. Gen. 357 (1981), Reconsideration, 61 Comp. Gen. 399 (1982). We will apply this standard in evaluating the record before us.

Plantation Motel

As stated previously, the employee was reimbursed for lodging on the basis of receipts in his possession. However, the motel records contained additional receipts for varying amounts made out to Mr. Savett. Considering the record as a whole, and the grievance examiner's findings, we believe that the evidence is insufficient to establish a clear inference of fraud on the part of the employee. There is nothing in the record which demonstrates that Mr. Savett was aware of the existence of the additional receipts, or that he had them in his possession. We also do not believe that the facts in this case warrant our limiting reimbursement for lodging costs on the basis of the lowest rate documented in the motel records. See Fraudulent Travel Claim, B-217686, June 20, 1985. Here the motel records contained matching receipts to Mr. Savett's, as well as others that were both higher and lower. Accordingly, Mr. Savett may be reimbursed for his entire claim for lodging at the Plantation Motel.

Erie Motel

The employee's original travel voucher indicated that he stayed at the Erie Motel for a weekend when in fact he went home. Mr. Savett admits that he went home for the weekend because his wife was sick, and that he paid for the lodging in advance. Again, there is insufficient evidence to establish a clear inference of fraud on the part of the employee. Mr. Savett submitted lodging receipts for the nights in question which indicate that he did pay for the room in advance and for which he may have felt he was entitled to reimbursement. Mr. Savett also claimed meal expenses for this period apparently under the mistaken belief that he was entitled to such reimbursement since he again requested such amount when he filed his grievance in 1985.

We have denied reimbursement for meal expenses where the employee traveled home on nonworkdays during his temporary duty assignment. Fraudulent Travel Claim, B-217686, supra; Fraudulent Travel Claim, B-217689, August 22, 1985. Such reimbursement is specifically prohibited by the provisions of para. 1-7.6a of the Federal Travel Regulations, FPMR 101-7, incorp by ref.,

41 C.F.R. § 101-7.003 (1985) (FTR), which precludes payment of per diem on subsistence expenses at an employee's official duty station. However, a traveler who voluntarily returns home on nonworkdays may be reimbursed for his round-trip transportation costs and subsistence expenses en route, not to exceed his constructive travel and subsistence expenses at the temporary duty site. See FTR para. 1-8.4f.

The grievance examiner correctly points out that Mr. Savett would have been entitled to reimbursement on a constructive basis for his weekend return travel had he so requested it. We agree, and since Mr. Savett paid for his lodgings in advance and there is no indication of fraud, Mr. Savett should be reimbursed on the basis of his constructive cost. The agency's questions are answered accordingly.

for 
Comptroller General
of the United States