



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: John F. Hein

File: B-225342

Date: April 15, 1987

DIGEST

An employee may not be reimbursed temporary quarters subsistence expenses while temporarily renting a home he planned to purchase at his new duty station, notwithstanding the fact that he was furnished erroneous information by employees of his agency.

DECISION

We are asked whether Mr. John F. Hein, an employee of the U.S. Customs Service, is entitled to temporary quarters subsistence expenses during the period he rented a home at his new duty station which he intended to purchase.^{1/} The fact that he and his family occupied the house on a rental basis prior to purchase does not change the fact that the house may not be considered temporary quarters, since he intended to purchase the home and use it as his permanent residence. Therefore, he is not entitled to temporary quarters subsistence expenses.

BACKGROUND

On March 30, 1986, Mr. Hein transferred from Chicago, Illinois, to Miami, Florida. He states that on May 12 or 13, 1986, he telephoned the National Finance Center, U.S. Customs Service, and was advised that the Government would honor his claim for temporary quarters subsistence expenses even though he rented the home he was about to purchase in Miami as his permanent residence. Mr. Hein indicates that on the basis of advice that he would receive reimbursement if he presented

^{1/} Mr. Thomas E. Garrison, Chief, Travel Section, U.S. Customs Service, National Finance Center, requested our decision.

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a rent receipt to verify his lodging costs, he subsequently rented the home before purchasing it. He claims temporary quarters subsistence expenses for himself and family in the amount of \$3,140.64, including meals and lodging costs for the rented home. The period of temporary quarters claimed was from July 1 through August 21, 1986, the day before he completed the purchase of the home.

The National Finance Center denied his claim for the reason that the home was his permanent residence rather than temporary quarters and that any erroneous advice he received from an employee of the National Finance Center leading him to believe his claim would be honored did not constitute a basis for authorizing reimbursement.

DISCUSSION

Temporary quarters subsistence expenses may be authorized for a limited period after vacating the residence at the old duty station and before occupying the permanent residence at the new duty station. Entitlement requires the quarters to be temporary rather than permanent, as set forth in Federal Travel Regulations, para. 2-5.2c (Supp. 10, March 13, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1984). This paragraph provides that if the employee moves into quarters initially intending them to be temporary quarters they may be considered temporary even though they later become a permanent residence. The employee must establish to the satisfaction of the employing agency that he or she initially intended the quarters to be temporary. Paragraph 2-5.2c states, "In making this determination the agency should consider such factors as: the duration of the lease, movement of household effects into the quarters, type of quarters, expressions of intent, attempts to secure a permanent dwelling, and the length of time the employee occupies the quarters."

In Mr. Hein's case there is no question that he intended to remain in the rented quarters. Before renting the house he states that he telephoned the National Finance Center and reported that "he was about to purchase the home," thereby indicating an initial intent to make the home his permanent residence. We have denied temporary quarters subsistence expenses where the employee rents the home that he intends to later purchase as his permanent residence, even though final settlement of the purchase has not taken place. James W. Pierce, B-202103, July 16, 1981. Therefore, since Mr. Hein

never intended the residence to be temporary, his claim for temporary quarters subsistence expenses must be denied.

The fact that Mr. Hein may have received erroneous advice from a Government employee that his claim would be honored and that he relied on the advice before renting the home does not provide a basis for allowing his claim. We have repeatedly held that although it is unfortunate when an employee receives information in this type of circumstance, this does not bind the Government to pay an unauthorized claim. See, John Pradarits, 56 Comp. Gen. 131 (1976).

Accordingly, for the foregoing reasons Mr. Hein's claim for temporary quarters subsistence expenses may not be paid.

Milton J. Fowler
for Comptroller General
of the United States