



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: William D. Dudley--Transferred Employee--
Temporary Quarters Subsistence Expense
File: B-226122
Date: March 8, 1988

DIGESTS

When transferred federal employees can demonstrate a reasonable need, temporary quarters subsistence expenses (TQSE) may be paid for periods prior to the moving day at the old permanent residence and after the delivery day of household goods at the new permanent residence. Hence, an employee of the National Security Agency who was transferred from Ottawa, Canada, to Fort Meade, Maryland, may be allowed TQSE for his use of a hotel in Ottawa prior to the time his household goods were picked up at his old residence there, if he can demonstrate to the agency that the residence was unavoidably rendered uninhabitable prior to that time because of the packing of his furniture. The employee was also properly allowed TQSE for an additional night's temporary lodgings following the delivery of his household goods in Maryland because the delivery was made late in the day and without advance notice, and in those circumstances the employee could neither move into his new residence immediately nor avoid being charged for staying an additional night at his hotel.

DECISION

An employee of the National Security Agency upon transfer to a new duty station may be paid temporary quarters subsistence expenses for the days he resided in temporary commercial lodgings before his household goods were picked up from his residence at the old duty station only upon a showing that the temporary lodgings were reasonably necessary.^{1/}

^{1/} Mr. Albert Depetro, Finance and Accounting Officer, National Security Agency, Ft. Meade, Maryland, requested our decision.

041522/135249

BACKGROUND

In February 1986 William T. Dudley, an employee of the National Security Agency, received permanent change-of-station orders transferring him from Ottawa, Canada, to Fort Meade, Maryland. Mr. Dudley vacated his permanent residence in Ottawa on June 24, 1986, and occupied temporary quarters there and in Maryland through the night of July 21, 1986.

Mr. Dudley's household goods were picked up at his old residence in Ottawa on June 26, 1986, but they were packed a day earlier on June 25. The household goods were delivered to his new residence in Maryland on July 21.

The National Security Agency allowed Mr. Dudley temporary quarters subsistence expenses (TQSE) for the period from June 26, 1986 (date of pickup), through July 21, 1986 (date of delivery), but disallowed TQSE for the days of June 24 and 25 and July 22 when the household goods were not in transit. Mr. Dudley questions the correctness of the disallowance of the TQSE he claimed for those days. He states that the purpose of his starting TQSE in Ottawa on June 24 was to launder bed linens, etc., to have everything ready for the packers early on June 25. He also states that the specific date for delivery at the new station in Maryland was not known until late on July 21, and because of the lateness of the hour he had incurred an obligation to pay for an additional night at a motel on "21/22 July."

In requesting an advance decision in this matter, the responsible officials of the National Security Agency state that they have consistently followed the policy "that the pickup and delivery dates of household goods are the single most important factors in determining the TQSE eligibility period, absent justifiable reasons why the period should be extended." They question whether this policy is proper under the applicable statutes and regulations and also whether Mr. Dudley may be allowed the additional TQSE claimed on the basis of his explanations.

DISCUSSION

An employee transferred in the interest of the government from one official station to another for permanent duty may be authorized subsistence expenses while occupying temporary quarters. 5 U.S.C. § 5724a(a)(3). Computation of the eligibility period is specified in implementing provisions of the Federal Travel Regulations (FTR) para. 2-5.2f, incorp. by ref., 41 C.F.R. § 101-7.003, as follows:

"When computing the length of time allowed for temporary quarters at Government expense, the time period will begin for the employee . . . when . . . the employee . . . begins the period of use of such quarters for which a claim of reimbursement is made. . . . The period of eligibility shall terminate when the employee . . . occupies permanent residence quarters or when the authorized period of time expires, whichever occurs first."

The Federal Travel Regulations further provide that the "administrative determination as to whether the occupancy of temporary quarters is necessary and the length of time for occupancy shall be made on an individual-case basis." FTR para. 2-5.1. Temporary quarters are to be regarded as an expedient to be used only for so long as is necessary for the employee to move into permanent residence quarters. FTR para. 2-5.2a(3). An employee shall be allowed subsistence expenses when occupancy of temporary quarters is determined necessary. FTR para. 2-5.2a(1).^{2/}

We have held that temporary quarters are to be regarded as an expedient to be used only so long as is necessary. See Ben L. Zane, B-194159, Oct. 30, 1979. For reimbursement to be allowed for the expenses of occupying temporary quarters a determination must therefore be made, on an individual basis in consideration of all the surrounding circumstances, that they were necessarily occupied. Ben L. Zane, B-194159, supra. Ordinarily this is a matter for determination by the employing agency, but our Office may make such determination predicated on the facts presented to us by the agency and the employee. Ben L. Zane, B-194159, supra; Irving R. Warnasch, B-193885, June 8, 1979; Douglas C. Staab, B-185514, Sept. 2, 1976.

In addition, we have expressed the view that, when an employee can demonstrate a reasonable need, TQSE may be allowed for periods prior to the time the employee's household goods are picked up at the old residence and after the time they are delivered to the new residence. Irving R. Warnasch, B-193885, supra. We have authorized

^{2/} Supplemental administrative directives applicable to the National Security Agency are contained in Volume 2 of the Joint Travel Regulations (2 JTR). Those directives conform to the governing provisions of the Federal Travel Regulations cited here. See para. C13004 and C13005, 2 JTR.

TQSE in such circumstances, for example, when the permanent residence could not reasonably be occupied as living quarters by the employee because the utilities were disconnected, or necessary furniture was unavailable. Irving R. Warnasch, B-193885, supra; Ben L. Zane, B-194159, supra.

In the present case, therefore, it is our view that while the pickup and delivery dates of Mr. Dudley's household goods are factors to be taken into consideration in determining his need for temporary quarters, the period of his eligibility for TQSE may properly be extended if the record discloses the existence of other factors demonstrating a reasonable need for his use of temporary quarters before the pickup date and after the delivery date.

Mr. Dudley claims additional TQSE for the evening and morning of July 21 and 22, 1986, on the basis that his household goods were delivered to his new permanent residence too late in the day on July 21 for him to make proper arrangements for moving in that day, particularly since he was not furnished with advance notice concerning the time of arrival of the moving van. Our view is that under the statute and regulations governing the payment of TQSE, transferred employees should be granted a reasonable period of time to unpack and make their new homes habitable after their household goods are delivered. It is also our view that employees' eligibility for TQSE should not be terminated on the day their household goods are delivered if, because of a lack of advance notice of the moving van's time of arrival, the employees have incurred an obligation to pay for temporary lodgings for an additional night.

However, National Security Agency officials now report that they followed this policy in Mr. Dudley's case, and that by their calculations he has already been reimbursed in the amount of \$54.88 for his lodging expenses for the night of July 21-22, 1986. It appears that a mutual misunderstanding occurred concerning the listings of his daily lodging expenses that led him to believe that he had not been reimbursed for that night. That is, in reimbursing him for his claimed expenses for "July 21" the agency officials intended to cover the lodging expenses he had incurred for the evening of July 21-22, but in his claim voucher he instead listed these expenses as having accrued on "July 22." This mutual misunderstanding about the listing of the dates on which his lodging expenses accrued affected the basis upon which the agency reimbursed him throughout the claim period.

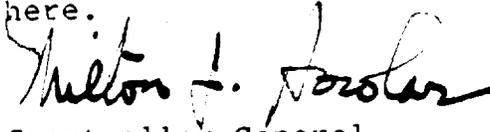
Thus, the confusion over the calendar days designated for lodging reimbursement caused Mr. Dudley to claim the Ottawa hotel rate of \$41.99 on July 8, 1986, even though he had checked out that day and then checked into the Maryland lodging the same day at a daily rate of \$54.88. He should now be reimbursed the difference, since the National Security Agency designates July 8 as a lodging day in Maryland.

As to Mr. Dudley's claim for additional TQSE for the period he maintained temporary quarters in Ottawa before his household goods were picked up at his old permanent residence on June 26, 1986, that claim relates to the packing of the goods prior to their pickup. We understand that transferred employees are often able to make arrangements with packers and movers to leave sufficient furnishings unpacked so that the residence can reasonably be used as living quarters up until the time the household goods are actually removed from the premises. Our view is that an employee's use of temporary quarters in those circumstances would not be a matter of necessity, but would instead be a matter of personal preference or convenience for which no TQSE could properly be allowed. Alternately, we understand that such arrangements are not possible in some situations, and the residence is rendered uninhabitable before the moving van arrives because the necessary furnishings have been packed away and cannot be used. Our view is that an employee's use of temporary quarters in those circumstances would be necessary, warranting payment of TQSE. The determination of necessity under the facts of a particular case is that of the agency in the first instance. Ben L. Zane, B-194159, supra.

The statement submitted by Mr. Dudley in support of his claim for TQSE on June 24 and 25, 1986, does not give us enough information concerning the amount of time, if any, his old residence was unavoidably rendered uninhabitable prior to June 26, 1986, because of the packing of his household goods. Hence, on the basis of the record before us we have no alternative but to remand the claim for TQSE for that period to the National Security Agency. However, if he is now able to provide a new and more detailed explanation demonstrating that his use of temporary quarters for some period prior to June 26 was a matter of necessity rather than personal convenience, we would have no objection

to a readjudication of his claim by the National Security Agency and the allowance of additional TQSE to him for that period.

The claim voucher and related documents are returned for further processing consistent with the conclusions reached here.

for 
Comptroller General
of the United States