



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Edward Carlin - Temporary Quarters in Former
Residence

File: B-229414

Date: July 25, 1988

DIGEST

A transferred employee requests reimbursement for a fee he paid to a relocation company so that his family could remain in their former residence 23 days after the residence was purchased. The claim is denied since the employee's home was not vacated as required by the applicable provisions of the Federal Travel Regulations.

DECISION

This decision is in response to a request by Roslyn A. Miller, Supervisory Voucher Examiner, National Park Service, United States Department of the Interior, for a decision regarding a travel voucher submitted by Mr. Edward Carlin, an employee of the agency. The claim is for reimbursement of a fee charged to him by a relocation company for his family's use of their former residence for 23 days after the residence had been purchased by the relocation company. For the reasons set forth below, we hold that the voucher may not be paid.

BACKGROUND

Mr. Carlin transferred from Albuquerque, New Mexico, to Omaha, Nebraska, in January 1987. He moved to Omaha on March 4, and he was reimbursed temporary quarters subsistence expenses for the period he occupied temporary quarters in Omaha. Mr. Carlin informed the National Park Service in January 1987 that his family would continue to reside in their home in Albuquerque until his children completed the school year and until he had found a new home in Omaha.

A relocation company made Mr. Carlin an offer to purchase his home in Albuquerque on April 8, 1987, and gave him 45 days to accept or reject the offer. Mr. Carlin accepted the offer on May 15, 1987, but his family remained in the

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home until June 7, 1987, 23 days after his acceptance. The relocation company charged Mr. Carlin \$22.64 per day, totalling \$520.72, for his family to continue living in their old residence. Mr. Carlin now requests reimbursement for this fee.

The National Park Service allowed Mr. Carlin's claim for his temporary quarters in Omaha, but the agency was uncertain as to how to classify the claim for the housing fee charged by the relocation company.

OPINION

The statute, 5 U.S.C. § 5724a(a)(3) (1982), and the implementing regulations contained in chapter 2, part 5, of the Federal Travel Regulations (FTR), incorp. by ref., 41 C.F.R. § 101-7.003 (1987), govern the payment of temporary quarters subsistence expenses. According to the regulation, temporary quarters generally refers to lodging obtained after the employee and his family have vacated the residence occupied before the transfer was authorized. FTR para. 2-5.2c.

The regulation does not specifically define the word "vacate;" however, decisions of this Office have given substantial weight to the intent of the employee to vacate the residence as a permanent residence. Intent is determined in light of all the facts and circumstances manifested by objective evidence. Charles C. Werner, B-185696, May 28, 1976.

Ordinarily, employees are ineligible for reimbursement of subsistence expenses incurred while renting their permanent residence following its sale at their old duty station. Kenneth M. Smith, B-201418, Sept. 22, 1981. However, in certain decisions, we have allowed reimbursement of temporary quarters in cases where the prior residence was not actually vacated. We have considered evidence of the actions taken by the employee prior to or after departure from the prior residence which demonstrate the employee's intent to cease occupancy of that residence. If an employee and his family cease to occupy it for the purposes intended, it can be deemed "constructively vacated." See Quinea D. Minton, B-218886, Mar. 24, 1986.

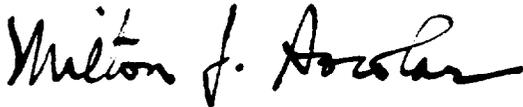
For example, in Beverly L. Driver, B-181032, Aug. 19, 1974, we held that an employee, who rented his former home when a moving van broke down the day he intended to leave, could be reimbursed for temporary quarters until the moving van arrived. Likewise, we held that a family that moved back into their old residence after it had been vacated, because

of an unexpected cancellation of the contract for a new home, could also be reimbursed. Patrick T. Schluck, B-202243, Aug. 14, 1981.

However, the facts in the present case do not demonstrate an intent to vacate as in the cases previously cited. In the present case, Mr. Carlin planned for his family to remain in their home at his old duty station after his home had been purchased. Mr. Carlin did not show the necessary intent to vacate his former residence at the time it was purchased and, therefore, reimbursement is clearly not authorized by the regulation. We have consistently held that when a transferred employee arranges in advance to rent his former home he cannot be reimbursed for temporary quarters. Gerald L. Modjeska, 56 Comp. Gen. 481 (1977); Michael J. Johnson, B-215708, Oct. 11, 1984.

This case is similar to James P. Driscoll, B-198920, Nov. 28, 1980, where the employee arranged to rent his former residence after the date of sale in order for his children to complete their school term. We held in Driscoll that temporary quarters could not be reimbursed because the employee had no present intent to vacate the home.

Accordingly, we hold that the employee may not be reimbursed for the cost of occupying his former residence after settlement on that residence.



Acting Comptroller General
of the United States