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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gina Enrique - Temporary Quarters Subsistence Allowance - Miscellaneous Expense Allowance

File: B-231587

Date: November 23, 1988

DIGEST

A transferred employee claims entitlement to temporary quarters subsistence expenses for the last 3 days she occupied her residence at the old duty station because the kitchen appliances had been disconnected in preparation for shipment. The claim is denied since the residence was not vacated within the meaning of paragraph 2-5.2c of the Federal Travel Regulation (FTR). The claim may not be paid under the FTR provisions governing miscellaneous expense reimbursement since those provisions specifically exclude expenses which are considered and denied elsewhere in the FTR. Gerald G. Shockley, B-230848, Sept. 6, 1988.

DECISION

This decision is in response to a request from the Director, Office of Finance and Accounting, Department of Housing and Urban Development (HUD). It concerns the entitlement of Mrs. Gina Enrique to be reimbursed temporary quarters subsistence expenses at her old duty station incident to a permanent change of station. We conclude that she may not be reimbursed for the following reasons.

BACKGROUND

Mrs. Enrique, an employee of HUD, was transferred to San Diego, California. Before she moved her household goods, she was instructed by the moving company representative that all of her appliances were to be disconnected, cleaned, and permitted to dry out for a minimum of 2 days prior to shipment. Since Mrs. Enrique was going to move her refrigerator, stove, and freezer, she and her family ate their meals out for 3 days prior to actually vacating their residence.

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Mrs. Enrique's meals expenses for these 3 days were disallowed by the agency based on our decision in Jack P. Collins, B-190108, Feb. 13, 1978, which held that temporary quarters expenses may not be paid unless the residence at the old duty station is vacated. On appeal, the employee questions whether the circumstances of the situation would permit payment for the 3 days or, in the alternative, permit payment of the claim under the provisions governing the miscellaneous expense allowance.

OPINION

The payment of subsistence expenses while occupying temporary quarters is authorized under 5 U.S.C. § 5724(a)(3) (1982), and implementing regulations contained in chapter 2, part 5 of the Federal Travel Regulations (FTR) as amended.^{1/} Paragraph 2-5.1 authorizes the payment of subsistence expenses to an employee and immediate family while occupying temporary quarters. Paragraph 2-5.2c of the FTR defines the term "temporary quarters" to mean any lodging obtained for the purpose of temporary occupancy by the employee and family after vacating the residence quarters occupied at the time the transfer was authorized.

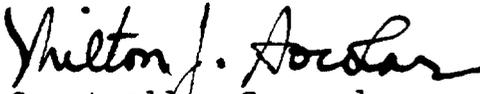
While the term "vacate" is not defined in the FTR, we have generally considered a residence to have been vacated when the employee's family ceases to occupy it for the purposes intended. Charles C. Werner, B-185696, May 28, 1976; Erle B. Odekirk, B-187519, Jan. 26, 1977; Luther S. Clemmer, B-199347, Feb. 18, 1981. Conversely, where the employee's family continues to occupy the residence at the old station without interruption, even on a temporary basis after it is sold, we have concluded that such continued occupancy negates any inference that the residence no longer is being occupied for the purpose intended. Edward Carlin, B-229414, July 25, 1988, and decisions cited. Cf. Beverly L. Driver, B-181032, Aug. 19, 1974, where due to a breakdown of a moving van the employee's family was forced to remain in occupancy with all their household goods packed. See also John L. Reid, B-227193, Oct. 16, 1987.

In the present case, while the employee and her family were preparing their household goods for packing and shipping, they had neither initiated their travel to the new duty station nor initiated shipment of their household goods to that destination. In view thereof, we do not consider the inconvenience created while preparing their appliances for

^{1/} Supp. 10, Nov. 14, 1983, incorp. by ref., 41 C.F.R. § 101-7.003 (1987).

shipment sufficient to qualify Mrs. Enrique to temporary quarters expenses for the 3 days she and her family continued to occupy their residence at the old station prior to their actual move.

With regard to the question as to whether the claim could be paid under the provisions governing the miscellaneous expense allowance (chapter 2, part 3 of the FTR), we have ruled that any entitlement an employee has to temporary quarters expenses is strictly governed by the provisions of chapter 2, part 5 of the FTR and no other. Gerald G. Shockley, B-230848, Sept. 6, 1988.

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