



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Connie Tharp Holmquist - Temporary Quarters
Subsistence Expense Allowance

File: B-255603

Date: February 10, 1994

DIGEST

The Federal Travel Regulations allow the initial 60-day period for temporary quarters subsistence expenses (TQSE) to be extended due to circumstances which have occurred during the initial period that are beyond the employee's control and acceptable to the agency. A housing shortage that exists prior to the initial TQSE period and continues to occur during that period may be given consideration by the agency as a basis for an extension of TQSE. However, whether and for what periods to grant TQSE initially and to grant extensions of TQSE are matters within the discretion of the employing agency, and GAO will not disturb such determinations unless they are arbitrary, capricious or contrary to law.

DECISION

This decision concerns Ms. Connie Tharp Holmquist's claim for an extension of temporary quarters subsistence expenses (TQSE) beyond the initial 60-day period authorized by her agency, the Soil Conservation Service, Department of Agriculture, incident to her transfer.

The record indicates that there was a severe housing shortage at claimant's new duty station, Heppner, Oregon, that had existed for a couple of years prior to her transfer in September 1992. Although she had taken a househunting trip before her transfer and had the assistance of a local realtor after her transfer, claimant states she was not able to obtain permanent housing until 30 days after the initial 60-day period authorized for TQSE had expired. The agency refused to extend the 60-day period for the additional 30 days, citing applicable regulations which allow such an extension only "due to circumstances which have occurred during the initial 60-day period." Federal Travel

Regulations (FTR), § 302-5.2(a)(2). The agency indicated that since the housing shortage had existed for the last couple of years prior to the initial period, the housing shortage circumstances did not come within the type of circumstances "which have occurred during the initial period." They also indicated that while they are not unsympathetic to Ms. Holmquist, they are not permitted by the Department of Agriculture to go beyond the scope of these provisions.

We believe that the agency's interpretation of the Federal Travel Regulations is more narrow than required in this case.

In this regard, we note that the regulations state the policy 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 § 302-5.1. We also note that one of the examples the regulations provide of compelling reasons which could be considered as beyond the employee's control in determining whether to grant an extension of the TQSE period is the inability to locate a permanent residence which is adequate for family needs "because of housing conditions at the new official station." FTR § 302-5.2(a)(2)(iii).

We believe that a reasonable interpretation of these provisions is that a severe housing shortage existing at the new station which prevents an employee from locating an adequate permanent residence during the initial TQSE period may be considered a basis for granting an extension notwithstanding that the housing shortage also existed prior to the employee's transfer. That is, an agency may consider what effect, in an individual case, a pre-existing shortage, also occurring after the employee's arrival at the new station, had on the employee's ability to locate an adequate permanent residence. Thus, in Ms. Holmquist's case, if the agency's determination not to grant an extension of TQSE was based solely on the belief that the regulations precluded them from taking into consideration the pre-existing housing shortage at Heppner, the agency should give the matter further consideration. If after doing so, it determines that the housing shortage was a matter beyond Ms. Holmquist's control that prevented her from locating adequate housing during the initial 60-day period and grants an extension on that basis, she may be paid an additional TQSE allowance.

¹The agency also cites an identical provision in Department of Agriculture regulations.

We must also point out, however, that determinations of whether and for what period to authorize TQSE initially and to grant extensions are matters within the discretion of the employing agency, and we will not disturb such determinations unless they are shown to be arbitrary, capricious or contrary to law. See e.g., John J. Goqlia, B-235177, Aug. 23, 1989.

Accordingly, the matter is being returned to the agency for further consideration.

Seymour Efron

for
Robert P. Murphy
Acting General Counsel