



Comptroller General
of the United States

551146

Washington, D.C. 20548

Decision

Matter of: Katherine H. Briley - Lodging Expenses -
Government Quarters Available

File: B-256982

Date: June 10, 1994

DIGEST

A civilian employee of the Navy may not be reimbursed the lodging expenses she incurred in non-government quarters while on a temporary duty assignment because adequate government quarters were available for her, in which case payment is prohibited by 10 U.S.C. § 1589 (1988). Robert Samalis, B-252291, June 18, 1993, distinguished.

DECISION

The Department of the Navy has forwarded for our decision Ms. Katherine M. Briley's claim for lodging expenses she incurred staying in non-government quarters during a temporary duty (TDY) assignment. The claim may not be allowed.

BACKGROUND

Ms. Briley is a civilian employee of the Navy who was required to perform temporary duty at New London, Connecticut, beginning on March 5, 1993. Her travel orders stated that government quarters would be available at New London. In fact, these quarters were available in the Suisse Chalet hotel which provided government contract lodgings located on the Naval base at New London. The cost of these quarters was \$55.68 per night. Ms. Briley stayed there the first night of her TDY, but then stayed the next two nights in a hotel located off the base that charged \$50.40 per night. Ms. Briley states that she returned to the Suisse Chalet for the remainder of her TDY at New London after being told that it was government contract quarters.

The disbursing Officer at Ms. Briley's permanent duty station refused payment on her claim for lodging expenses incurred for the two nights she stayed in the hotel off-base, citing the rule applicable to employees of Department

¹The matter was referred to us by the Bureau of Naval Personnel.

of Defense components that, in the absence of a certificate of non-availability of government quarters, a traveler may not be reimbursed for commercial lodging costs.

Ms. Briley argues that she was merely acting prudently in moving to less expensive quarters. The Defense Finance and Accounting Service recommended payment on Ms. Briley's claim based on our decision Robert Samalis, B-252291, June 18, 1993, in which we held that an employee in a somewhat similar situation could be reimbursed an amount not to exceed what it would have cost the government had he stayed in government procured commercial quarters that were available to him. However, in that case, because on-base government quarters were unavailable, the agency had booked space for the employee at a special rate in an off-base motel, which was canceled at no cost to the agency when the employee, due to a misunderstanding, stayed in a different motel. In Ms. Briley's case, the record indicates that the on-base contract quarters in the Suisse Chalet are considered "co-equal" with the bachelor officers quarters (BOQ), and the Disbursing Officer noted that the agency's contract with the Suisse Chalet required the agency to pay for any unoccupied rooms less than a contracted number.

OPINION

Section 1589 of title 10, United States Code, prohibits use of funds available to the Department of Defense to pay the lodging expenses of a civilian employee on official travel "where adequate Government quarters are available but are not occupied by such employee or person."

As we noted in Samalis, *supra*, it is implicit in this statute that appropriated funds may not be used to pay for lodgings while other appropriated funds are being used to maintain unoccupied quarters. In this case, unlike the Samalis case, the Suisse Chalet was contracted for by the agency on a continuing basis and for use, in effect, as BOQ. On that basis, the agency was obligated to pay for a minimum number of rooms whether or not they were occupied, and there is no indication that such obligation was not incurred during the two nights Ms. Briley stayed elsewhere.

²See Joint Travel Regulations, Vol. 2, para. C1055, ch. 325, Nov. 1, 1992.

Therefore, the limited exception allowed in the Samalis case is not applicable here. Accordingly, payment of Ms. Briley's claim is prohibited by the statutory provision cited above.

/s/ Seymour Efros
for Robert P. Murphy
Acting General Counsel

B-256982

June 10, 1994

The Honorable Owen Pickett
Member, United States
House of Representatives
2710 Virginia Beach Boulevard
Virginia Beach, Virginia 23452

Dear Mr. Pickett:

This further responds to your letter of February 11, 1994, forwarded to us by the Department of the Navy concerning a claim from Ms. Katherine H. Briley for lodging expenses incurred on official travel. As explained in our decision, B-256982, dated today, copy enclosed, we have determined that payment of Ms. Briley's claim is prohibited by 10 U.S.C. § 1589 since the lodging expenses were incurred for commercial quarters when quarters contracted for by the government were available for her.

In separate letters, we have notified the Department of the Navy and Ms. Briley of our decision.

We trust this serves the purpose of your inquiry.

Sincerely yours,

/s/ Seymour Efros
for Robert P. Murphy
Acting General Counsel

Enclosure

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