



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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MAR 8 - 1966

Dear Airman [REDACTED]

There has been received original settlement certificate of our Claims Division dated November 15, 1965, which disallowed your claim for basic allowance for subsistence (separate rations) from July 19, 1964, to May 16, 1965, while assigned to 474th Field Maintenance Squadron, Cannon Air Force Base, New Mexico, which was returned with a machine copy of AF Form 220, dated June 24, 1965, together with an original and 4 carbon copies thereof certified by Captain F. A. Teat, USAF, Administrative Officer, to be a true copy. It is presumed that your action is intended as a request for review of the action taken on your claim.

By Special Order No. A-148, dated April 8, 1964, you were transferred on a permanent change of station from 56 Weather Reconnaissance Squadron (MATS), APO 328, San Francisco, California, to 832 Air Division (IAC), Cannon AFB, New Mexico. Special Order P-137, dated July 27, 1964, assigned you to duty as airframe repairman, effective July 19, 1964, with the 474 Field Maintenance Squadron. On June 24, 1965, you executed AF Form 220, Request, Authorization and Pay Order BAS-Separate Rations, requesting authority to ration separately from your organization, effective July 19, 1964, on which it is stated that AF Form 220, submitted July 19, 1964, was never entered in your pay account at the finance office and that you are due separate ration allowance from July 19, 1964, to June 1, 1965. Your request was approved by Major Daniel J. Neuman, your present commander and signed by SMSgt. K. E. Jordan, as commander or authorized representative and as certifying officer. Over the latter's signature appears the statement "THE VOCO DATE OF 19 Jul 64 IS HEREBY CONFIRMED."

To substantiate your claim the following statements have been furnished:

Certificate of Major Neuman that you resided in family quarters since your assignment to 474th Field Maintenance Squadron on July 19, 1964.

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Certificate of Major Neuman that you reported for duty to the Commander, 474th Field Maintenance Squadron on July 19, 1964, that on that date you requested and received permission to ration separately and that you were under the impression that payment for subsistence was being made pursuant to your request but that the contrary was discovered during a routine audit.

Your certificate dated August 8, 1965, that you reported to SSgt. David A. Loadwick, Chief Clerk of the 474th Field Maintenance Squadron on July 19, 1964, and at that time you signed AF Form 220, requesting permission to ration separately and reside off base with your family.

Certificate of Sergeant Loadwick that you reported to him on July 19, 1964, and requested that AF Form 220 be initiated and that you be granted permission to ration separately and reside off base. The certificate also states that "Permission was granted and AF Form 220 was submitted through channels to the Base Finance Office for posting on Airman Persian's Military Pay Records."

The following certificate of Major Neuman dated August 4, 1965:

"Due to the retirement of Lt Colonel James M. Campbell, the Commander of the 474th Field Maintenance Squadron on 19 July 1964, the attached statement is made by Staff Sergeant David A. Loadwick, AF12601485, Chief Clerk, 474th Field Maintenance Squadron."

Your claim was forwarded to this Office for direct settlement because of the unusual length of time between the duty performed and the date the orders were issued authorizing the credit. It was stated in settlement certificate dated November 16, 1965, that properly authenticated evidence has not been furnished to show by whom permission to ration separately was granted to you and that payment of your claim is not authorized in the absence of evidence that permission to ration separately as of July 19, 1964, was granted by your installation commander or by the officer properly delegated by him to grant such permission.

Subsection (a) of section 301 of the Career Compensation Act of 1949, ch. 681, 63 Stat. 812, as amended, 37 U.S.C. 251(a) (1958 ed.),

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authorized the payment of a basic allowance for subsistence on a daily basis to enlisted members of the uniformed services when "permission to mess separately is granted." Subsection (d) of section 301 provided: "The President may prescribe regulations for the administration of this section." Section 2 of Executive Order No. 10119, dated March 27, 1950, issued under authority of said section 301, provided generally that the Secretary of the uniformed service concerned, with respect to the personnel of the uniformed services in his department, was authorized to prescribe such supplemental regulations, "not inconsistent herewith," as he might deem necessary or desirable for carrying out the provisions of the order and of section 301 of the act. Effective November 1, 1962, 37 U.S.C. 251(a) was superseded, without substantive change, by 37 U.S.C. 402(b).

The regulations prescribed by the Secretary of the Air Force which were in effect during the period involved were contained in Chapter 4, Part Two, Air Force Manual 177-105. Under paragraph 20404b(2)(c)1 (Change 33, May 28, 1963) of those regulations, airman were entitled to receive the basic allowance for subsistence on a daily basis when granted permission to mess separately notwithstanding the availability of a Government mess. It was there provided (1) that such permission to mess separately might be granted by the commander of a major command, numbered air force, air division, air force base, wing or other comparable separate command and (2) that such authority to grant permission to mess separately might be delegated to squadron commanders provided standard criteria for granting permission were established throughout the base or command.

Paragraph 20409 (Change 31, April 15, 1963) provided that "AF Form 220, Request, Authorization and Pay Order, BAS--Separate Rations," would be used as application, authorization, and substantiating document to credit payment of basic allowance for subsistence when an airman was permitted to ration separately at his permanent duty station under paragraph 20404b(2)(c)1, and it was stated explicitly that airmen "should submit applications immediately upon reporting to a new station or otherwise becoming eligible for separate rations." It was there further stated that Section I of AF Form 220 would be completed to show the airman's full name, grade, service number, permanent organization and duty station, marital status, effective date desired, reason for request (if other than a current effective date was desired the reason for delay in submission was to be shown), and that after the application was dated and signed by the airman it was to be presented to the squadron commander. It was also stated that Section II

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of AF Form 220 would be completed by the unit, base or wing commander and that the effective date specified on that form for separate rations credit was the date the airman was authorized, including verbal authority, to ration separately, and, further, that verbal authority given on the effective date shown would be confirmed by the commander or his authorized representative in Section II, and that Retroactive authority to ration separately is prohibited.

In view of the foregoing the AF Form 220 dated June 24, 1965, signed in Sections II and III by Sergeant Jordan on June 28, 1965, forms no basis for allowance of separate rations during the period of your claim. Before favorable consideration may be given your claim, it must be shown that you were currently granted permission to ration separately by your installation commander or by an officer to whom such authority had been properly delegated. While Sergeant Loadwick states that in July 1964 permission for you to ration separately was granted (apparently on AF Form 220) and that such form was submitted through channels to the base finance office at that time, this is in direct conflict with his action on the current Form 220 in which he purports to confirm verbal orders of the commanding officer of July 19, 1964. It has been the general practice of this Office not to accept verbal orders as a basis for payment of public funds unless such orders have been confirmed in writing within a comparatively short time while the commanding officer would have a fresh recollection of the events involved. No explanation has been furnished as to how an enlisted man such as Sergeant Loadwick could have been authorized to confirm verbal orders of a commanding officer and it appears that confirmatory orders by the officer himself could not be given effect if issued approximately one year after the period of time to which they relate. Accordingly, the settlement of November 15, 1965, returned herewith, is sustained.

Very truly yours,

FRANK H. WEITZEL

Acting Comptroller General  
of the United States

Enclosure