

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

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FILE:

DATE: JUN 25 1975

MATTER OF: **B-183239****Robert L. Donelson - Claim for subsistence while
occupying temporary quarters**

DIGEST:

Employee who was transferred from Fresno, California, to Boise, Idaho, occupied temporary quarters in motel for 2-1/4 days and then moved to rented house which he occupied until subsequent transfer back to Fresno 5 months later. Claim for additional subsistence while occupying temporary quarters for rented house is allowed. Employee evidences intent not to occupy rented house on permanent basis by submitting letters from landlady and realtor showing that house was rented on temporary basis and that active search for permanent housing continued until notice of transfer back to Fresno.

This is a request for an advance decision submitted by letter of February 12, 1975, from Nedra A. Blackwell, an authorized certifying officer of the Bureau of Reclamation, United States Department of the Interior, as to the propriety of reimbursing Robert L. Donelson, an employee of the Bureau of Reclamation, for subsistence while occupying temporary quarters incident to a permanent transfer of duty station. By travel order dated September 30, 1974, Mr. Donelson was authorized to travel from Fresno, California, to Boise, Idaho. The travel order, among other things, authorized payment of subsistence while occupying temporary quarters for a maximum of 30 days less a house-hunting trip. Since the file indicates that the employee used 6 days for a house-hunting trip, this would leave a balance of 24 days for which he would be entitled to subsistence while occupying temporary quarters. While Mr. Donelson's voucher indicates that he is claiming a total of 24 days' subsistence while occupying temporary quarters, he previously claimed and was paid for 2-1/4 days, for which a proper adjustment was made on his voucher. Thus, Mr. Donelson is actually claiming an additional 21-3/4 days' subsistence while occupying temporary quarters.

Upon arriving in Boise in the latter part of October 1974, Mr. Donelson and his family obtained motel accommodations for 2-1/4 days prior to occupying a house that he had made arrangements to rent

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while on a house-hunting trip earlier in that month. He submitted a claim and was paid subsistence expense while occupying temporary quarters for that period. In his claim he signed a "Temporary Quarters Certification" to the effect that that period was the minimum required to obtain permanent living quarters. The certifying officer succinctly states what transpired thereafter:

"Approximately three weeks later, Mr. Donelson contacted this office requesting additional temporary quarters as he stated that the rented house was never intended to be a permanent residence for he and his family. His claim for a total of 24 days temporary quarters is attached along with verification letters from his landlady and a realtor which establishes evidence that the house was rented on a temporary basis and that he was active in a search for permanent quarters. Mr. Donelson resided in this house from October 31, 1974 to the present time. To further cloud the issue, the death of Mr. Donelson's former boss in Fresno necessitated the transfer of Mr. Donelson back to the Fresno office. He will be leaving Boise on February 18, 1975 and would in no way be able to make his rented house permanent quarters."

The certifying officer states that a comprehensive definition of the term "temporary quarters" is not provided by 5 U.S.C. 5724a (1970), and that she understands that each case must be decided on the basis of the particular facts involved. However, she states that two of our decisions, B-179521, January 29, 1974, which is published at 53 Comp. Gen. 508, and B-175913, June 19, 1972, could be interpreted to preclude the payment of temporary quarters after receipt and unpacking of household effects.

Paragraph 2-5.2c, Federal Travel Regulations (FPMR 101-7, May 1973), defines temporary quarters as follows:

"The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

We have consistently held that, as stated by the certifying officer, a determination as to what constitutes temporary quarters is not susceptible of any precise definition, and any such determination must be based on the facts in each case. Thus, in past decisions we have considered such factors as the duration of a lease, B-173326, October 27, 1971, movement of household effects into the quarters, B-175913, supra, the type of quarters, B-167361, August 5, 1969, expressions of intent, B-179870, September 26, 1974, attempts to secure a permanent dwelling, B-163893, May 9, 1968, and the period of residence in the quarters by the employee, B-167632, August 20, 1969. The above factors were utilized in attempting to determine whether the intent of the employee was to occupy the quarters on a permanent or temporary basis. Thus, in certain cases payment of temporary quarters allowance has been allowed where the employee manifested an intent to only temporarily occupy quarters, although they subsequently became permanent. B-176367, August 4, 1972, and 53 Comp. Gen. 508, supra.

In this case, Mr. Donelson has provided a letter from his landlady to the effect that he was renting on a month-to-month basis with the understanding that his tenancy would be limited to the time required to find and purchase a new home. It was further agreed that the time required probably would not exceed 3 to 4 months. In addition, a letter from a real estate broker in Boise indicates that he was unable to locate suitable housing for Mr. Donelson during his house-hunting trip and that it was suggested that Mr. Donelson temporarily rent a house until "a better selection of homes appeared on the market." The letter further states that, despite continued attempts during November and December 1974 and January 1975, suitable housing had not been located. Furthermore, and in response to the certifying officer's question concerning the effect of receipt and unpacking of household effects, we note that the household effects apparently were not completely moved into the quarters. Mr. Donelson states that the garage of the rented house was used to temporarily store unpacked boxes and furniture, thus providing easy access to essential household items as needed. This indicates that at least some portion of the household effects were not unpacked. In any event, the receipt and unpacking of household effects is not, by itself, determinative of whether quarters are permanent or temporary. 46 Comp. Gen. 709 (1967).

We believe that the circumstances of this case clearly evidence an intent on the part of Mr. Donelson to occupy the rental house

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temporarily until suitable permanent quarters could be located. The fact that he signed a certificate stating that 2-1/4 days was the minimum time required to obtain permanent housing does not convince us otherwise, when considered within the totality of circumstances in this case. Accordingly, the voucher may be processed for payment if otherwise correct.

~~Deputy~~ R.F. KELLER
Comptroller General
of the United States