

DECISION

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

FILE:

DATE: AUG 10 1976

B-186266

MATTER OF:

John D. Rotz

DIGEST:

Employee whose duties require substantial and continuous temporary duty travel and who does not commute daily from his residence to his official station may nonetheless be reimbursed transportation expenses and per diem en route for return travel from temporary duty station to his permanent residence for nonworkdays under paragraph 1-7.5c of the Federal Travel Regulations and paragraph C10158, Vol. 2, of the Joint Travel Regulations. Those paragraphs allow reimbursement of expenses of voluntary return travel to the employee's official station or to the residence from which he commutes daily to his official station, not to exceed the expenses of remaining at the temporary duty station.

By letter forwarded April 2, 1976, by the Per Diem, Travel and Transportation Allowance Committee (Control No. 76-9), N. P. Childs, a disbursing officer for the Department of the Army, has requested an advance decision concerning Mr. John D. Rotz' claim for additional mileage and per diem expenses in connection with his temporary duty assignment from April 2, through June 18, 1975.

Mr. Rotz maintains his permanent residence in Fort Loudon, Pennsylvania, at a distance of 197 miles from his permanent duty station at the Tobyhanna Army Depot. While the nature of his work requires him to perform travel away from his permanent duty station on a substantial and continuous basis, Mr. Rotz states that he obtains temporary lodgings in a hotel at his own expense when he is occasionally required to perform duty at the Tobyhanna Army Depot. During the period of this temporary duty assignment, Mr. Rotz routinely returned home to Fort Loudon to spend weekends and other nonworkdays with his family.

In reimbursing Mr. Rotz' travel expenses, the Army computed his per diem entitlement under the lodgings-plus system by dividing \$488, the total cost of lodgings actually incurred, by 58, the number

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of nights he was away from his permanent duty station including those nights he was at his Fort Loudon residence. Based on an average lodgings cost of \$8.42 per day plus an appropriate amount for meals and miscellaneous expenses, Mr. Rotz was paid a per diem allowance of \$21 per day for the period from April 21 through May 17, 1975, and a per diem allowance of \$23 per day for the period from May 19 through June 18, 1975, including periods of weekend travel to Fort Loudon.

Pointing out that most employees are instead reimbursed transportation costs and per diem en route for weekend return travel, Mr. Rotz has submitted a reclaim voucher for \$150.28. In arriving at that amount, he has recomputed his entitlement to transportation and per diem expenses in accordance with the voluntary return travel provisions of paragraph C10158 of the Joint Travel Regulations, Volume 2 (JTR 2). Accordingly, he has redetermined his per diem under the lodgings-plus system by dividing the total cost of lodgings by 33, the number of nights he actually occupied lodgings at his temporary duty location. The effect of this change in the method of computation is to raise the per diem rates to which he is entitled from \$21 and \$23 to \$27 and \$29, respectively. He makes no claim for per diem while at Fort Loudon, but instead claims transportation expenses and per diem en route for his weekend commuting to and from Fort Loudon, limited to the per diem he would have received had he remained through weekends at his temporary duty station.

The disbursing officer questions the basis upon which the reclaim voucher is submitted inasmuch as Mr. Rotz' weekend travel to Fort Loudon did not involve return either to his official station or his place of residence from which he commutes daily to his official station and, therefore, would not appear to fall within the voluntary return travel provision of paragraph C10158, JTR 2. The cited provision is the Department of Defense's implementation of paragraph 1-7.5c of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) which reads as follows:

"c. Return to official station on nonworkdays.

* * * In cases of voluntary return of a traveler for nonworkdays to his official station or his place of abode from which he commutes daily to his official station, the reimbursement allowable for the round-trip transportation and per diem en route may not

exceed the per diem and any travel expense which would have been allowable had the traveler remained at his temporary duty station."

Authority for payment of travel expenses for voluntary return travel for nonworkdays has been in effect for a number of years. As initially promulgated, however, the regulations limited payment of travel expenses to cases of voluntary return only to the employee's "official station." See paragraph 45 of the Standardized Government Travel Regulations as amended October 1, 1950. As explained in 27 Comp. Gen. 50 (1947), that limitation was the consequence of regulatory language precluding payment of per diem at the employee's official station.

Notwithstanding the initial limitation of weekend return travel expenses to travel to the official station, we held in 29 Comp. Gen. 533 (1950) that an employee could be reimbursed travel expenses for return travel for nonworkdays to a residence not located at the official station. In that case the employee's duty station was located in Philadelphia, Pennsylvania. During an extended temporary duty assignment at Meriden, Connecticut, the employee routinely returned to his home in New York City over weekends. Since the expenses he incurred in traveling between Meriden and New York City were less than he would have incurred if he had either remained at Meriden or returned to Philadelphia, we held that he could be reimbursed such expenses.

Effective December 1, 1960, the Standardized Government Travel Regulations were amended to extend the prohibition on payment of per diem at the employee's permanent duty station to include the employee's "place of abode from which he commutes daily to his official station." Commensurately, the return travel provision was expanded to much its present form to allow travel on nonworkdays between the employee's temporary duty station and his "official station or his place of abode from which he commutes daily to his official station."

With an understanding of the development of the regulation to its current form, the basis for reimbursement of voluntary return travel expenses is clear. If the employee were to remain at his temporary duty station on weekends or holidays, he would be entitled to per diem payments for those days. If he were to return to his permanent duty station or to the residence from which he

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regularly commutes, he would receive no per diem. To the extent that transportation and en route per diem expenses between his temporary duty point and his home or official station do not exceed the per diem costs otherwise payable, the voluntary return regulation enables the employee to spend his weekends and other non-workdays at home with family and friends at no additional cost to the Government.

The question presented here is whether the cost and policy considerations behind the weekend return travel authorized under paragraph 1-7.5c of the FTR extend to situations in which an itinerant employee such as Mr. Rotz returns to his permanent residence which is neither his permanent duty station nor the place from which he regularly commutes to his official station. In 53 Comp. Gen. 313 (1973), we held that an employee could be reimbursed such costs where the residence to which he returned for nonworkdays did not qualify on either account. The employee in that case resided in Syracuse, New York, when he was appointed to a position with the Internal Revenue Service in Newburgh, New York. Upon appointment he was immediately assigned to temporary duty in Philadelphia, Pennsylvania, and was unable to relocate his residence to the Newburgh area until some time later. While temporarily assigned to Philadelphia, he routinely returned to his Syracuse residence for weekends. We there noted that the regulation authorizing expenses for return travel for nonworkdays presupposes that an employee on temporary duty has had an opportunity to establish a residence within the commuting distance of his permanent station. Under circumstances where the employee has not had that opportunity we held that the phrase "*** place of abode from which he commutes daily to his official station" could be construed as including his old residence although not located within normal commuting distance of his official station.

While that case is certainly distinguishable, we believe the basic consideration involved is similar to that present in the situation of an employee like Mr. Rotz whose duties require substantial and continuous travel and who does not maintain his permanent residence in the vicinity of his official station. Insofar as the cost to the Government does not exceed the per diem he would otherwise receive while remaining at his temporary duty station, the principal consideration is that the employee's family life be interfered with as little as possible. For that reason, we believe that an employee who performs substantial and continuous travel, who does not regularly commute

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daily to his official station and who maintains his permanent residence at some distance from his official station, may be reimbursed transportation and en route per diem expenses for return travel to that residence to the same extent reimbursement is permitted under paragraph 1-7.5c of the FTR.

In determining Mr. Rotz' per diem entitlement and hence the limitation on reimbursable expenses for weekend return travel his total lodgings cost of \$488 should be divided by the number of nights he remained in lodgings at his temporary duty location. The nights he remained at Fort Loudon or was en route to or from Fort Loudon should not be included in the average lodgings cost computation, consistent with our holdings in B-176706, October 13, 1972, and 53 Comp. Gen. 313, supra.

Insofar as otherwise correct, Mr. Rotz' voucher may be paid in accordance with the above.

R. F. Keller

Deputy, Comptroller General
of the United States