

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

IN REPLY
REFER TO: B-191297

October 26, 1978

Mr. James M. Peirce
President, National Federation
of Federal Employees
1016 16th Street, N.W.
Washington, D.C. 20036

Dear Mr. Peirce:

This matter concerns the request of _____, a civilian employee of the United States Air Force, Minot AFB, North Dakota, for reimbursement for the expense of lodging in commercial quarters while attending a training course at Chanute AFB, Illinois, from November 9, through November 29, 1977. The agency disallowed the claim, in the amount of \$335.

The authority to render decisions is limited to matters presented by heads of departments and agencies, disbursing and certifying officers, and to claimants who have filed monetary claims with our Office. See 31 U.S.C. 74 and 82d. Since it appears you are not within the class of individuals entitled to a decision, we are providing the following information in lieu of a formal decision on the merits of the case.

The record indicates that _____ arrived at Chanute AFB on November 9, 1977, and prepared to occupy Government quarters on the base. However, according to _____ the facilities provided were totally inadequate. After spending one night in these facilities, _____ left the base. _____ then contacted his home base commander at Minot AFB who stated that if it were within his purview, he would permit _____ to move off base and collect per diem at the nonavailability of quarters rate. _____ apparently relied on this advice when he rented a room at a local motel for the duration of his training assignment.

Section 853 of Public Law 95-111, September 21, 1977, 91 Stat. 908 provides as follows:

"None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person."

B-191297

The purpose of this provision is to prevent the expenditure of Federal funds by civilian personnel, who are on temporary duty at military installations, for lodging in commercial quarters when adequate Government quarters are available but not used.

Regulations promulgated by the Per Diem, Travel and Transportation Allowance Committee of the Department of Defense (DOD) implementing the law are contained in paragraph C1055 of Volume 2 of the Joint Travel Regulations and provide in part as follows:

"USE OF GOVERNMENT QUARTERS

"1. GENERAL. Although an employee may not be required to utilize Government quarters, when adequate Government quarters are available but not used, the payment of the quarters portion of the per diem or actual expense allowances of any employee on temporary duty away from his designated post of duty may not be made except under the following conditions:

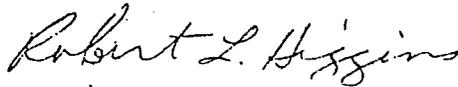
- "1. when the order-issuing authority, either prior or subsequent to the travel involved, issues a statement to the effect that the utilization of Government quarters at the temporary duty station or delay point would adversely affect the performance of the assigned mission (this exception is not applicable to personnel attending training courses at an installation of the Uniformed Services);
- "2. when the commanding officer (or designated representative) responsible for Government quarters at the temporary duty or delay point furnishes a statement to the effect that utilization of Government quarters was impracticable; or
- "3. when, prior to 1 October 1977, the employee entered into a commitment for quarters which cannot be canceled without a financial penalty to the employee."

In case, no statement was issued under item 2 of subparagraph C1055-1, nor were items 1 and 3 of that subparagraph applicable to his situation. Further subparagraph C1055-3 provides that where Government quarters are unavailable at a temporary duty station a statement

B-191297

from the commanding officer of the installation must be furnished.
did not obtain a statement from the commanding officer at
the point of the temporary duty as to the nonavailability of adequate
Government quarters. On the contrary the record shows that adequate
quarters were available at Chanute AFB.

Sincerely yours,



Robert L. Higgins
Assistant General Counsel