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PLM-11



**DECISION**

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

FILE: B-194126

DATE: August 23, 1979

*Request for*

MATTER OF: Ronald L. Stukey - Subsistence while occupying temporary quarters (TQSE)

DIGEST: Employee who was transferred on a permanent change of station (PCS) submitted a claim for subsistence while occupying temporary quarters (TQSE) which he occupied at the new duty station for more than 6 months. A TQSE allowance may not be paid during the period an employee occupies a residence in which he intends to remain for more than a temporary period, irrespective of the absence of household effects which arrive at his new residence at a later date.

*AGC 00378*

The issue in this case is whether an employee may be paid subsistence while occupying temporary quarters (TQSE) upon a permanent change of station (PCS) in the circumstances described. If such an allowance is authorized a determination is needed as to whether the claim for meals is unreasonable. The answer on the TQSE is no and since no allowance is authorized, the reasonableness of the claim for meals is immaterial. The Defense Logistics Agency (DLA), Department of Defense, by letter of February 7, 1979, requests an advance decision on the claim.

Mr. Stukey was employed by the DLA with duty at the U.S. Naval Base, Guantanamo, Cuba. In December 1977 he received orders for a PCS to the DLA Property Disposal Office, Norfolk, Virginia, effective January 16, 1978. These orders were later amended to provide an effective date of transfer to be February 1, 1978. Prior to receiving orders for transfer, three of Mr. Stukey's dependent children left Guantanamo in March 1977 to reside with relatives in the continental United States. On January 17, 1978, Mr. Stukey's wife and a dependent child traveled from Guantanamo to Virginia Beach, Virginia. Mrs. Stukey signed a lease for rental of a residence at 1132 Gladiola Crescent, Virginia Beach, Virginia, sometime after her arrival. However the lease bears the date January 1, 1978, and was for the term January 1, 1978, through January 31, 1978. Mr. Stukey departed Guantanamo on January 31, 1978, and arrived in Norfolk the same day and immediately took up residence at 1132 Gladiola Crescent in Virginia Beach. The record is not clear on what date Mrs. Stukey and the dependent children began

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residing at 1132 Gladiola Crescent but it appears that Mr. Stukey, his wife and four dependent children lived at the Gladiola Crescent address for a period prior to August 7, 1978, when they moved to 3821 Edinburgh Drive, Virginia Beach, Virginia. An agreement to purchase the residence at Edinburgh Drive was executed by Mr. and Mrs. Stukey on April 8, 1978, with settlement to be made on or before August 15, 1978.

Part of Mr. Stukey's household goods (5,522 pounds) were shipped to 3629 Silina Drive, Virginia Beach, from Guantanamo on March 3, 1977. On January 18, 1978, the remainder of the household goods were shipped from Guantanamo to Virginia Beach in two shipments. One shipment weighing 387 pounds and the other weighing 5,728 pounds were apparently shipped to 1132 Gladiola Crescent in March 1978. The file does not indicate when, if ever, the household goods shipped in March 1977 were delivered to either the Gladiola Crescent address or the Edinburgh address.

Although Mr. Stukey has been requested by DLA to supply information as to when his dependents occupied the residence at Gladiola Crescent and the destination of all of the household goods, that information has not been supplied, or if supplied is incomplete.

Mr. Stukey initially submitted a claim for meals in the amount of \$3,587.83 dated March 3, 1978, for the period January 31, 1978, through March 1, 1978, including \$1,301.35 for the first 10 days. The claim for meals was later revised to \$2,835.30 in a voucher dated May 10, 1978. The claim for meals was considered unreasonable and unsubstantiated by DLA from the documentation as requested of Mr. Stukey.

Paragraph 2-5.2a of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR) provides, in pertinent part, that:

"\* \* \* Subsistence expenses of the employee for whom a permanent change of station is authorized or approved and each member of his immediate family \* \* \* shall be allowed for a period of not more than 30 consecutive days while the employee and family necessarily occupy temporary quarters and the new official station is located in the 50 States, the District of Columbia, United States territories and possessions, the Commonwealth of Puerto Rico and the Canal Zone \* \* \*." (Emphasis added.)

As is clear from the above, an employee's entitlement to TQSE is contingent upon his occupying temporary quarters. Paragraph 2-5.2c of the FTR 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."

This Office has consistently held that an employee may not be reimbursed subsistence expenses during the period he occupies the residence in which he intends to remain, irrespective of the absence of his household effects which arrive at his new residence at a later date. Matter of Jack Carson, B-191626, November 20, 1978; Matter of Jack P. Collins, B-190108, February 13, 1978; and Matter of Kenneth C. Crawford, B-194065, June 8, 1979.

The evidence of record shows that Mr. Stukey intended to occupy the leased residence for more than a temporary period. In fact, the contract for the purchase of the residence at 3821 Edinburgh Drive was not made until more than 60 days had elapsed after Mr. Stukey's return and 90 days after the lease on the residence at 1132 Gladiola Crescent was executed. Movement to the purchased home did not take place until 7 months after Mr. Stukey's arrival in Virginia Beach. Although the residence at Gladiola Crescent may have been unfurnished and lacked cooking and eating facilities, it does not qualify as temporary quarters in which the employee intended to reside for a short period prior to moving into his permanent quarters. On the question of furnishings for the residence at 1132 Gladiola Crescent there is some discrepancy in the assertion made that Mr. Stukey and his dependents were without facilities to prepare meals. The record shows that the shipment of household goods from Guantanamo on January 18, 1978, did not arrive in Virginia Beach until March 1978. However, a prior shipment of household goods weighing 5,522 pounds was shipped from Guantanamo on March 8, 1977, and delivered to 3629 Silina Drive, Virginia Beach, on April 18, 1977. Although Mr. Stukey has been asked to supply information regarding the disposition of this shipment, he has failed to do so. The shipment in March 1977 represented approximately 50 percent of his household goods by weight and were already in Virginia Beach when he arrived.

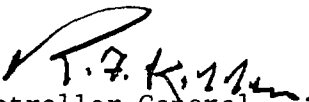
In any claim against the Government, the claimant has the burden of proving the validity of his claim. 4 C.F.R. Sec. 31.7. See also 53 Comp. Gen. 181 (1973); 31 Comp. Gen. 340 (1952); and B-187713, February 14, 1978. If a claimant has information which may be useful in determining the validity of his claim but chooses to withhold the information for personal reasons or for reasons of privacy, he may fail to sustain the burden of proof necessary to prove the validity of his claim. The right to receive a TQSE must be determined by applying the facts available to the provisions of law and regulations applicable to travel allowances and payment on

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a basis not recognized by those provisions is not authorized. On the basis of the record before us, there is insufficient information to establish Mr. Stukey's claim for a TQSE and the question of the reasonableness of the charge for meals is not reached.

Accordingly, Mr. Stukey's claim for TQSE is denied. The supporting documents will be returned as requested.

We note that the request for decision was addressed to the Claims Division of our Office--not the Comptroller General of the United States. In order to expedite a request for decision under the provisions of the act of December 29, 1941, ch. 641, § 3, 55 Stat. 876, 31 U.S.C. § 82d, the request should be addressed to the Comptroller General of the United States, Washington, D.C. 20548. 55 Comp. Gen. 645, 648 (1976).

  
Deputy Comptroller General  
of the United States