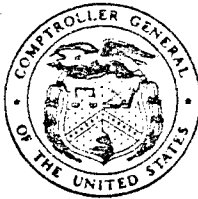


18545

DECISION



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

FILE: B-194847

DATE: June 19, 1981

MATTER OF: Colonel Albert L. Gore, USA

DIGEST: Member in Government housing for which he pays rent and utilities while assigned to Panama Canal Government may not be reimbursed for electric costs in excess of his basic allowance for quarters under 10 U.S.C. 4593. Basic allowance for quarters payment includes not only an amount for rent but also an amount for utilities.

The question is whether a member of the Army who is assigned to duty with the Panama Canal Company may be reimbursed his costs for electricity in his assigned quarters owned by the Company for which he paid rent. Since the member received a basic allowance for quarters which, in part, constitutes an allowance for electricity, he may not be reimbursed.

The question was submitted for an advance decision by Colonel G. A. Seamands, Chief, United States Army Finance and Accounting, Pentagon Office, Office of the Comptroller of the Army, Washington, D.C. 20310. The claimant who precipitated the question is Colonel Albert L. Gore, who served as Health Director of the Canal Zone Government from March of 1976 until May of 1978.

Colonel Gore, as the Health Director of the Canal Zone Government, was assigned housing by the Panama Canal Company. While in these quarters, Colonel Gore paid for his rent and utilities. Since the quarters he occupied were not rent free he received a basic allowance for quarters under the authority of 37 U.S.C. 403(e) and paragraph 3022 of Department of Defense Military Pay and Allowance Entitlements Manual. His basic allowance for quarters did not reimburse him fully for his total rental and utility costs. He, therefore, seeks reimbursement for approximately \$1,600 in utility expenses in excess of his basic allowance for quarters. The member suggests that if he cannot be reimbursed the expenses incurred, he should be authorized a station housing allowance.

Regarding Colonel Gore's request for a station housing allowance, the disbursing officer correctly notes

[Claim for Reimbursement of Electricity Costs]

017325

B-194847

that members occupying Panama Canal Company housing are precluded from receiving this allowance by the holding in 54 Comp. Gen. 214 (1974). In that case, we denied the member a station housing allowance while occupying the quarters of the Panama Canal Company because the applicable regulation, 1 Joint Travel Regulations (1 JTR), para. M4301-3c(2) (now M4301-3g(2)), stated that the allowance was not payable to a member when he and his dependents were assigned or occupied Government quarters. Under 1 JTR, para. M1150-5 (now in 1 JTR, Appendix J, "Glossary of Terms"), Government quarters were defined as "any sleeping accommodations owned or leased by the U.S. Government, provided they are made available to, or utilized by, the members concerned." Since the Panama Canal Company was an agency of the United States Government, its quarters were Government quarters and a member in those quarters could not receive the allowance. Likewise, the decision applies to Colonel Gore's situation and he may not receive the allowance.

In the alternative it is suggested that 10 U.S.C. 4593, provides authority to reimburse Colonel Gore. This statute states:

"The heat and light necessary for the authorized quarters of members of the Army shall be furnished at the expense of the United States."

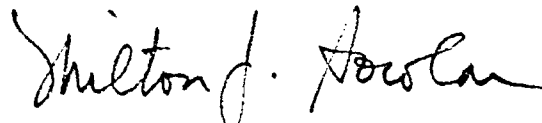
The statute is derived from a proviso in the Army appropriation bill for fiscal year 1908, Act of March 2, 1907, ch. 2511, 34 Stat. 1167, which is virtually identical to the current statute. As the Army notes, and our research verifies, there is no detailed legislative history accompanying the appropriation bill which fully explains its purpose or whether it is applicable to the current situation. We have found, however, other authority which indicates that the statute cannot provide a basis to reimburse the member.

The original proviso was the authority for the Quartermaster's Department to provide a member with heat and light for his assigned quarters. The proviso was also the authority for a heat and light allowance when he provided his own quarters. See Smith v. United States,

B-194847

47 Ct. Cl. 313, 314-315 (1912). This heat and light allowance was in addition to a room allowance a member received when not assigned Government quarters. See Act of March 2, 1907, ch. 2511, 34 Stat. 1158. Commencing with the Act of June 10, 1922, ch. 212, section 6, 42 Stat. 628, the former separate allowances were merged into a unitary rental allowance, now basic allowance for quarters. See 62 Cong. Rec. 6542-6543 and 6550-6551 (1922). Therefore, when a member receives a basic allowance for quarters, he is receiving an allowance which includes an amount for heat and light.

Accordingly, Colonel Gore may not be reimbursed for these expenses and the voucher submitted with the request will be retained here. However, we note that in decision B-199718, rendered today, we held that the Department of Defense, through the Per Diem, Travel and Transportation Allowance Committee, may change the applicable provisions of the Joint Travel Regulations to permit payment of appropriate station housing allowance in the future.



Acting Comptroller General
of the United States