

## DECISION



2045783  
 THE COMPTROLLER GENERAL  
 OF THE UNITED STATES  
 WASHINGTON, D. C. 20548

FILE: B-203222

DATE: January 5, 1982

MATTER OF: William E. Klotz--Temporary Quarters  
 Expenses

DIGEST: Temporary quarters subsistence expenses are disallowed for the 11-day period an employee occupied, on a rental basis, a residence he had contracted to purchase at his new official station. Although the employee states he intended to occupy his residence only temporarily while he paid rent until his purchase became complete on settlement day, the facts and circumstances of the matter indicate that while the rental arrangement was temporary, he intended to occupy the residence permanently from the date he moved in.

Mr. William E. Klotz, an employee of the Federal Bureau of Investigation (FBI), believes he is entitled to temporary quarters subsistence expenses since he intended to occupy the residence he rented at his new duty station only temporarily until settlement day when he completed purchase of the home. The FBI denied the claim because he occupied the residence as his permanent home during the claim period as was the case in our decision Neil D. Wilton, B-184836, November 28, 1975, disallowing temporary quarters expenses under facts similar to those involved in Mr. Klotz's case. However, because Mr. Klotz disagrees with that denial, the Authorized Certifying Officer has submitted it to us for an advance decision.

We agree with the FBI's denial of the claim since Mr. Klotz continuously occupied the residence without evidencing any intent other than to do so permanently throughout the rental period and after settlement day.

Incident to his transfer from Hackensack, New Jersey, to Bristol, Virginia, Mr. Klotz while on a house-hunting trip to Bristol entered into a purchase agreement for the residence on August 29, 1980. The FBI indicates that on October 6 its Traffic Management Office arranged shipment of Mr. Klotz's household goods with their destination shown as the residence Mr. Klotz agreed to purchase on August 29. Upon arrival in Bristol, Mr. Klotz obtained

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motel lodging for himself and his family during October 16 to 20, 1980. He commenced to occupy the residence on October 21, paying rent until settlement day, October 31, 1980, when he completed the purchase and continued living in it. The record shows no disruption of occupancy at any time. However, he claims temporary quarters expenses during the rental period, October 21-31, 1980.

As stated in the Wilton case, cited above, we have held that whether the residence is considered temporary or permanent is based upon "the intent of the employee at the time he or a member of his family moves into the quarters which later become his permanent residence." This decision goes on to say that if "the employee has demonstrated through pertinent facts and circumstances that his intention was to occupy a residence on a temporary basis," reimbursement is allowable.

Mr. Klotz does state that it was his intent to occupy the residence only temporarily until settlement day. He also notes that the well furnishing water to his residence was contaminated for about 2 days of the rental period which inconvenienced him.

As Mr. Klotz requests, and, as is our practice, we have reviewed all the material submitted by him and the FBI including letters dated April 8 and May 8, 1981, addressed to our Office by Mr. Klotz; the travel voucher and supporting statements he furnished the FBI on November 18, 1980; memoranda dated December 30, 1980, and January 20, 1981, from Mr. Klotz to the FBI Voucher Payroll Section; memoranda from the FBI to Mr. Klotz dated December 12, 1980, and January 8, 1981; and the Authorized Certifying Officer's May 5, 1981 letter to our Office requesting the advance decision. Our review of these documents including statements concerning his water supply did not show facts and circumstances to support Mr. Klotz's contention that he occupied the residence only temporarily during the period in question. While the problem with the well temporarily restricted the use of the residence, it did not affect its continuous occupancy.

Subsection 2-5.2d of the Federal Travel Regulations (FPMR 101-7) (May 1973) provides that temporary quarters

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are an expedient to be "used only if or for as long as necessary until the employee can move into permanent residence quarters." Subsection f states that entitlement to temporary quarters expense terminates "when the employee or any member of his immediate family occupies permanent residence quarters \* \* \*." Thus occupancy, not unrestricted use, of the permanent residence is controlling. For example, temporary quarters expense has been denied where the employee occupies the residence, even though his furniture has not arrived and cooking and eating facilities are lacking. Robert N. Havens, B-194837, August 8, 1979.

In this case Mr. Klotz was able to move into his new residence on October 21, and temporary quarters such as the motel were then no longer necessary for him. While the rental arrangement Mr. Klotz had in moving into his residence before settlement was not intended to be permanent, it is clear that the residence itself was intended to be his permanent residence.

Accordingly, payment of temporary quarters subsistence expenses is not authorized for the period October 21-31, 1980. The voucher submitted is being returned for settlement on the remaining items.

For the

*Harry R. Van Cline*  
Comptroller General  
of the United States