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**DECISION**



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

**FILE:** B-218513

**DATE:** February 28, 1986

**MATTER OF:** Travis D. Jackson

**DIGEST:**

Since the change of permanent duty station increased the employee's commuting distance from his old residence by only 28 miles, there is no entitlement to temporary quarters expenses requiring under travel regulations an increase greater than 40 miles. The employee was paid a travel advance predicated in part upon unauthorized temporary quarters expenses. Such a travel advance is considered a loan to the employee and must be paid back to the Government unless it is offset by allowable travel expenses.

Mr. Travis D. Jackson, an employee of the Farmers Home Administration, Department of Agriculture, is not entitled to reimbursement of temporary quarters subsistence expenses in connection with his transfer between duty stations in 1984 because the distance involved in his move was not sufficient to qualify.<sup>1/</sup>

Mr. Jackson's permanent duty station was changed from Galax, Virginia, to Wytheville, Virginia, in April 1984. Although he was authorized temporary quarters subsistence expenses, his move did not comply with the regulatory requirement that the change of station must increase the commuting distance from the employee's old residence to the new permanent duty station by more than 40 miles over the distance between the old residence and the old duty station.

With one exception not relevant to the present case, the regulation expressly provides that there is no

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<sup>1/</sup> Mr. W. D. Moorman, Authorized Certifying Officer, Department of Agriculture, requested our decision.

034720

eligibility for temporary quarters subsistence expenses "when the distance between the new official station and old residence is not more than 40 miles greater than the distance between the old residence and the old official station \* \* \*." See Federal Travel Regulations, para. 2-5 (Supp. 10, March 13, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1985). When Mr. Jackson's old duty station was in Galax, his residence was 13 miles away in Hillsville, Virginia, which was 41 miles away from his new duty station in Wytheville. The change of station, therefore, increased the commuting distance from the old residence by only 28 miles (41 miles less 13 miles), far short of the 40-mile limitation under FTR, para. 2-5.2h.

The Virginia State Director, Farmers Home Administration, points out that FTR, para. 2-1.5b(1) provides:

"Ordinarily, a relocation of residence shall not be considered as incident to a change of official station unless the one-way commuting distance from the old residence to the new official station is at least 10 miles greater than from the old residence to the old official station."

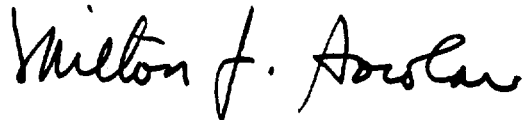
He believes his office mistakenly used this 10-mile guideline rather than the correct 40-mile limitation when it authorized temporary quarters subsistence expenses for 120 days on July 31, 1984. Nevertheless, by its terms FTR para. 2-1.5b(1), provides guidance to assist agencies in determining whether the change of residence is incident to the change of permanent duty station. This determination is necessary to qualify the employee for relocation benefits generally. Jack R. Valentine, B-207175, December 2, 1982. Payment of the temporary quarters subsistence allowance is subject to the more restrictive rule.

Thus, regardless of why the allowance was mistakenly authorized, FTR para. 2-5.2h clearly imposes the 40-mile limitation on payment of a temporary quarters subsistence allowance, the particular allowance involved in this case. When a transfer involves a difference in commuting mileage of less than 40 miles in accordance with the formula prescribed, the allowance may not be paid. Jack R. Valentine, B-207175, supra.

B-218513

Mr. Jackson is in debt to the Government for excess travel advances made in connection with his transfer under 5 U.S.C. § 5705. Even though entitlement to a temporary quarters subsistence expense allowance may have been a factor in calculating the amount of the advance, that advance is not considered an erroneous payment of pay or allowances subject to consideration for waiver. Charles E. Clark, B-207355, October 7, 1982. Advances are considered loans that are repaid either by setoff against authorized travel expenses incurred or by other payment. Since Mr. Jackson did not incur authorized travel expenses equal to the advances paid him, the advances remain an outstanding indebtedness. Collection of the debt must be instituted as provided in FTR, paras. 2-5.5, 2-1.6a(2), and 1-10.3c.

Accordingly, Mr. Jackson may not offset temporary quarters subsistence expenses against the travel advances given him. Those advances should be collected in accordance with existing policy and procedures.



Acting Comptroller General  
of the United States