



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Allan L. Franklin - Temporary Quarters
Subsistence Expenses
File: B-222136
Date: September 19, 1986

DIGEST

A transferred employee claims temporary quarters subsistence expenses associated with his occupancy of a furnished one-bedroom condominium he had purchased. The employee's claim may be allowed because the record shows that the employee intended to occupy the condominium on only a temporary basis pending his purchase of a suitable family residence. Specifically, the temporary character of the employee's occupancy of the condominium is evidenced by the fact that the one-bedroom unit would not accommodate his six-person family and by the fact that he kept his household goods in storage while residing there.

DECISION

Mr. Allan L. Franklin, an employee of the Federal Bureau of Investigation (FBI), has appealed our Claims Group's settlement denying him temporary quarters subsistence expenses for a period during which he occupied a condominium he had purchased. ^{1/} We reverse our Claims Group settlement and hold that Mr. Franklin may receive temporary quarters subsistence expenses because, as explained below, we find that he intended to occupy the condominium for only a temporary period.

BACKGROUND

In November 1981, Mr. Franklin was notified that he would be transferred from Hackensack, New Jersey, to Miami, Florida, effective January 29, 1982. Shortly after he received the transfer notice, Mr. Franklin put his house in New Jersey

^{1/} Mr. Franklin's appeal was forwarded to us by Mr. John H. Skaggs, an authorized certifying officer of the FBI.

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up for sale. Apparently, at the time, Mr. Franklin's real estate agent advised him that the sale of his house could be delayed indefinitely because of unfavorable market conditions.

Mr. Franklin transferred to Florida in January 1982, under orders which authorized him 30 days' temporary quarters subsistence expenses. He purchased a furnished one-bedroom condominium in Hallandale, Florida, moved into the condominium with his wife and mother-in-law, and reported for duty in Miami on January 29. Mr. Franklin's three children remained in the house in New Jersey, apparently because there was insufficient space for them in the condominium.

In July 1982, while still residing in the condominium, Mr. Franklin sold his house in New Jersey and moved his children down to Florida. ^{2/} He placed his household goods into storage, and began searching for a house which would accommodate his entire family.

In November 1982, Mr. Franklin purchased a seven-room house in Boca Raton, Florida. After moving his family and household goods into the new house, he sold the condominium.

Mr. Franklin claimed temporary quarters subsistence expenses, excluding lodging expenses, for himself and his wife. The claim covered the period January 29 to February 27, 1982, and amounted to \$1,110.40.

The FBI denied Mr. Franklin's claim for temporary quarters subsistence expenses on the basis that he had purchased the quarters he and his wife occupied. Our Claims Group concurred with the FBI's determination, finding that, at the time Mr. Franklin moved into the condominium, he intended to reside there for more than a temporary period.

Mr. Franklin maintains that he intended to occupy the condominium on only a temporary basis, pending the sale of his residence in New Jersey and his purchase of a new house in Florida. He states that the one-bedroom condominium would

^{2/} The record does not indicate whether the children moved into the condominium or resided in separate quarters.

not have accommodated his entire family, and he notes that he did not move his household goods into the condominium. Also, Mr. Franklin states that he incurred substantial cost savings by residing in the condominium, since his monthly mortgage payments were significantly lower than the cost of renting an apartment or securing motel accommodations on a long-term basis. Mr. Franklin adds that he reviewed the FBI's guidelines concerning temporary quarters subsistence expenses and found no specific provision disallowing those expenses for an employee occupying purchased quarters.

DISCUSSION

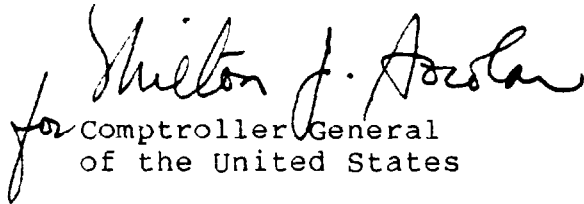
The authority for paying subsistence expenses during a transferred employee's occupancy of "temporary quarters" is provided by 5 U.S.C. § 5724a(a)(3) (1982) and the implementing regulations which, at the time of Mr. Franklin's transfer, were contained in para. 2-5.2 of the Federal Travel Regulations (September 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1983) (FTR). Because the term "temporary quarters" is not defined explicitly in either 5 U.S.C. § 5724a(a)(3) or FTR para. 2-5.2, we have consistently held that the determination whether quarters are temporary or permanent must be based on the facts of each case with primary consideration given to the intent of the employee at the time he moved into the quarters. See Johnny M. Jones, 63 Comp. Gen. 531 (1984), reconsidered and affirmed, B-215228, April 12, 1985. In determining whether an employee intended to occupy quarters on a temporary or permanent basis, we have considered such factors as the type of quarters, the duration of the employee's occupancy, movement of household goods into the quarters, efforts to secure a permanent residence, and expressions of intent. See Robert D. Hawks, B-205057, February 24, 1982. However, we have stated that we will not consider any single factor as being determinative of an employee's intention to occupy quarters on a temporary or permanent basis. See Charles U. Benner, B-181022, November 4, 1974.

Although a condominium is normally considered to be a permanent-type residence, the record before us contains several factors indicating that Mr. Franklin intended to occupy the condominium in Hallandale on a purely temporary basis pending his purchase of a suitable family residence in Florida. First, and most significantly, we note that the condominium was a one-bedroom unit and could not have

accommodated Mr. Franklin's six-person family. See Calvin Reese, B-187834, June 21, 1977; and Robert Bollinger, B-181549, January 27, 1975. Furthermore, we note that the condominium was furnished, and that Mr. Franklin kept all of his household goods in storage while residing there.

Under these circumstances, we conclude that Mr. Franklin's occupancy of the condominium was temporary in nature. Accordingly, we hold that he may be reimbursed for temporary quarters subsistence expenses.

For the reasons stated above, we reverse our Claims Group settlement.


for Comptroller General
of the United States