



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

CP

Matter of: Michael Balen

File: B-248868

Date: September 2, 1992

### DIG/ST

An employee departed his permanent duty station on a Sunday for official business commencing on a Tuesday. He lodged with friends on Sunday night at no cost, and was on annual leave on Monday. Although employee was on annual leave on Monday, and per diem is not normally reimbursable when an employee is on annual leave, Monday would have been the employee's normal travel day. Therefore, he may be reimbursed per diem on a constructive basis in accordance with the Federal Travel Regulation, 41 C.F.R. §§ 301-2.5(b), and 301-7.15(c) (1991).

### DECISION

The issue presented is whether Mr. Michael Balen, an employee of the United States Department of the Interior, Bureau of Mines, may be reimbursed for expenses he incurred incident to temporary duty for a day he was on annual leave.<sup>1</sup> For the following reasons, we determine that the employee may be reimbursed for his actual expenses not to exceed the per diem allowable on a constructive cost basis.

Mr. Balen traveled from Anchorage, Alaska, to Denver, Colorado, arriving in Denver 6:04 p.m. on Sunday, March 29, 1992, for official business scheduled to begin on Tuesday, March 31, 1992. He incurred no lodging cost in Denver on Sunday night since he resided with friends.

Mr. Balen was in an annual leave status on Monday, and he incurred a lodging cost of \$74 for Monday night. The Bureau of Mines denied Mr. Balen's claim for reimbursement for Monday night on the basis of a provision in the Federal Travel Regulation (FTR), 41 C.F.R. § 301-7.15(a) (1991), which provides that no per diem shall be allowed for a day when the leave is more than one half of the prescribed daily

<sup>1</sup>The request was submitted by the Chief, Division of Finance, Bureau of Mines, Denver, Colorado.

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working hours. Mr. Balen states that he should be reimbursed this amount since such expense would have been incurred if he traveled on Monday in order to report for duty Tuesday morning.

We agree with Mr. Balen. The FTR provides that if there is an interruption of travel or deviation from the direct route resulting in excess travel time because of an employee's personal preference or convenience, or through the taking of leave, per diem allowed shall not exceed that which would have been allowed on uninterrupted travel by a direct or usually traveled route. 41 C.F.R. §§ 301-2.5(b) and 301-7.15(c) (1991).

Thus, the FTR specifically provides that an employee is allowed reimbursement for his actual expenses, not to exceed the constructive per diem cost that would have incurred but for his personal preference in taking an early departure, or leave. Further, we have held that the fact that an employee chooses to take annual leave in conjunction with the authorized temporary duty does not affect his entitlement to constructive-cost reimbursement under the cited FTR provisions. Ronald Metevier, 66 Comp. Gen. 449 (1987) Gregg Marshall, 58 Comp. Gen. 797 (1979)

Mr. Balen was scheduled to be on temporary duty on Tuesday, and in keeping with the policy expressed in 5 U.S.C. § 6101(b)(2) (1988) that employees travel to the maximum extent possible within their regularly scheduled workweek, Monday would have been his normal travel day. We note that Mr. Balen arrived in Denver Airport Sunday at 6:04 p.m. Therefore, we assume that comparable flights were available on Monday.

Accordingly, Mr. Balen may be reimbursed his actual expenses, including his lodging expense, not to exceed the constructive per diem cost, computed in accordance with 41 C.F.R. § 301-7.8. See 46 Comp. Gen. 425 (1966)

*for* *Simon Ego*  
James F. Hinchman  
General Counsel