

DECISION

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

FILE: **B-185281**DATE: **MAY 24 1976**MATTER OF: **Robert V. Brown - Temporary quarters
subsistence expenses**

DIGEST: Department of Defense employee given training assignment at a location other than his then permanent station, may not be reimbursed temporary quarters subsistence expenses as an incidence of training. However, because the training assignment in his particular case was to be followed by transfer to a new duty station and because selection for training was tantamount to notice of transfer, employee may be paid expenses for occupancy of temporary quarters at the training location as incident to the ultimate permanent change of station.

Mr. Robert V. Brown, a Department of the Air Force employee, has appealed the decision reached in Transportation and Claims Division (now Claims Division) Settlement Certificate No. Z-2507390, October 17, 1974, denying his claim for a temporary quarters subsistence expenses allowance.

On July 19, 1971, Mr. Brown was issued permanent change of station orders directing him to travel from his then permanent duty station in Weisbaden, Germany, to Maxwell Air Force Base, Alabama. Among other entitlements, Mr. Brown was thereby authorized temporary quarters subsistence expenses for himself and his five dependents for 30 days. Having occupied temporary quarters with his family at Maxwell Air Force Base during the period from August 13, 1971, through September 11, 1971, the employee was subsequently paid a temporary quarters subsistence expenses allowance in the amount of \$1,678.33. On February 17, 1972, the July orders were amended to clarify the fact that the assignment to Maxwell Air Force Base was not a change in permanent duty stations but was instead for the purpose of long-term, full-time training. Based on correction of his orders, Mr. Brown was eventually found to be indebted to the Government for the \$1,678.33 temporary quarters subsistence expenses allowance paid to him. Of the total amount of that indebtedness, \$324.58 has been collected by the Air Force.

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Upon completion of his training assignment in the spring of 1972, Mr. Brown was issued change-of-station orders directing him to report for permanent duty to Kelly Air Force Base, Texas. There is nothing in the file to show that he has made claim for temporary quarters subsistence expenses in connection with his reporting for duty at Kelly Air Force Base.

The question before us is Mr. Brown's entitlement to repayment of the \$324.58 amount collected from him and to retain the balance of \$1,353.75 received by him as a temporary quarters subsistence expenses allowance. Both the Air Force and our Claims Division have found Mr. Brown liable for repayment of the full amount of the allowance received in the absence of any authority for payment of temporary quarters subsistence expenses incident to training assignments under the Government Employees Training Act. An employee assigned to training under that Act is entitled only to the transportation, travel and per diem expenses provided for at 5 U. S. C. § 4109 (1970) as follows:

"(a) The head of an agency, under the regulations prescribed under section 4118(a)(8) of this title and from appropriations or other funds available to the agency may--

* * * * *

"(2) pay, or reimburse the employee for, all or a part of the necessary expenses of the training, without regard to section 529 of title 31, including among the expenses the necessary costs of--

"(A) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 404 and 405 of title 37, and the Joint Travel Regulations for the Uniformed Services;

"(B) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under section 5724 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 406 and 409 of title 37, and the Joint Travel Regulations for the Uniformed Services, when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training* * *."

In urging our favorable reconsideration of his claim, Mr. Brown suggests that the administrative actions taken in his case evidence an uncertainty as to the status and entitlements of an employee who, like himself, is directed to a training assignment incident to, but before completing, a permanent change of station. He attributes this in part to the fact that the applicable regulations are drafted on the assumption that the employee will return to his former duty station upon completion of the training assignment. The regulations to which he refers, Volume 2 of the Joint Travel Regulations, para. C3052 and C4102, are, respectively, as follows:

"C3052 ATTENDANCE AT TRAINING COURSES

"1. TEMPORARY DUTY ASSIGNMENT. The authority for training programs through Government or non-Government facilities is included in 5 U.S. Code 4104 and 4105. Generally, attendance at a training course is a temporary duty assignment. Authorization for transportation and other allowable expenses incident to temporary duty assignments at training courses is subject to the provisions in this volume.

"2. OTHER THAN TEMPORARY DUTY ASSIGNMENT

"a. General. To the extent of the authority provided in 5 U.S. Code 4109, which allows

transportation of an employee's family and household goods in lieu of per diem payments, the conditions in subpars. b and c will apply. The provisions of this paragraph do not authorize the following:

- "1. payment of per diem to employee's dependents for travel incident to training assignments under par. C4102;
- "2. round-trip travel to seek permanent residence quarters incident to permanent duty travel;
- "3. payment of temporary quarters subsistence expenses incident to occupancy of temporary quarters in connection with permanent duty travel;
- "4. reimbursement of miscellaneous expenses associated with discontinuing residence at one location and establishing residence incident to permanent duty travel;
- "5. reimbursement for expenses incurred in connection with real estate transactions and unexpired lease.

"b. Transportation of an Employee's Family and Household Goods. If the estimated cost of round-trip transportation of an employee's immediate family and household goods between the employee's official duty station and the training location is less than the aggregate per diem payments that the employee would receive while at the training location, such round-trip transportation at Government expense may be authorized in lieu of per diem payments. Such transportation will be in accordance with the provisions in this volume relating to permanent change-of-station movement (see par. C4102)." (Emphasis added.)

"C4102 MOVEMENT INCIDENT TO TRAINING
OR INSTRUCTION

"1. GENERAL. A permanent change of station may be authorized for employees who are assigned for training in Government or non-Government facilities (see par. C3052). This authority may be used only when the estimated costs of round trip transportation for dependents and household goods are less than the estimated aggregate per diem amount payable during the period of assignment at the training location. Round trip refers to movement from the employee's permanent duty station to the training location and return to the initial permanent duty station upon completion of training assignment. Transportation expenses are borne by the activity or command whose funds are made available for the training assignment. The activity or command having jurisdiction over the employee is responsible for travel order issuance. For entitlements incident to permanent duty travel, see par. C3052." (Emphasis added.)

The criterion set forth at para. C3052-2b, above, under which transportation of the employee's family and household goods may be authorized in lieu of per diem payments is phrased in terms of a comparison of per diem costs with the estimated cost of round-trip transportation between the employee's official station and the training location. As Mr. Brown has correctly noted, the applicable regulations are in part drafted on the assumption that the employee will return to his former duty station upon completion of the training assignment and do not specifically address the subject of the entitlements of an employee who is assigned to training en route or incident to a permanent change of station.

While the statutory and regulatory authorities quoted above are sufficiently clear in indicating that temporary quarters subsistence expenses may not be paid incident to training, Mr. Brown's particular training assignment was to be followed by a permanent change of station, incident to which temporary

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quarters subsistence expenses may be paid. Incident to permanent changes of station we have held that an employee may be reimbursed for temporary quarters occupied prior to reporting for duty at the new duty station regardless of whether the temporary quarters are located at the old duty station, B-164888, August 20, 1968; B-170336, October 29, 1970; B-181032, August 19, 1974, or at a point different than either the old or new duty station, B-161887, August 14, 1967; B-165139, October 8, 1968. Thus, assuming Mr. Brown had been given permanent change-of-station orders to other than his training location and had been authorized temporary quarters subsistence expenses in connection with that transfer, there would appear to be no prohibition against reimbursing him for the costs incurred in occupying such quarters in the vicinity of the Maxwell Air Force Base during the period of the training assignment. In his particular case, however, the precise location of the duty station to which he would be transferred following the training assignment had not been determined as of the date he was directed to training at Maxwell Air Force Base.

With respect to reimbursement of temporary quarters subsistence expenses, Federal Travel Regulations (FPMR 101-7) para. 2-5.2e (May 1973) provides that the use of temporary quarters may begin as soon as the employee's transfer has been authorized, and the written agreement required by FTR para. 2-1.5a(1) has been signed. Presumably, Mr. Brown was required to execute an agreement in connection with the erroneous issuance of permanent change-of-station orders to his training location, as well as in connection with his ultimate transfer to Kelly Air Force Base. Under the particular circumstances of this case, we believe that a permanent change-of-station transfer, in effect, had been ordered at the time he was assigned to training at Maxwell Air Force Base, notwithstanding that the location of his new duty station had not then been determined. Mr. Brown was not authorized return transportation for his family and household goods to Germany upon completion of training, and the position which he previously held at Weisbaden had been eliminated in a reduction in force. His training assignment was in fact ordered in anticipation of his further reassignment to a new but undetermined permanent station.

Because we find that Mr. Brown had, in effect, been authorized a permanent change of station from Weisbaden, Germany, to a then

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undetermined location at the time he reported for training at Maxwell Air Force Base, and because there is no restriction on the location at which temporary quarters may be occupied after the employee has vacated permanent residence quarters at the old duty station, he may be reimbursed expenses incurred in connection with his family's use of temporary quarters while at his training location. We note in this connection that, although he was authorized 10 days temporary quarters subsistence expenses by the written orders directing his ultimate transfer to Kelly Air Force Base, the record does not indicate that he has made claim for or recovered expenses for the use of such quarters.

For the reasons indicated above, the indebtedness is hereby cancelled. Accordingly, the collection action ordered by Settlement Certificate No. Z-2507390, October 17, 1974, should be suspended and our Claims Division is being advised to reimburse the \$324.58 amount plus any such additional amounts as may have been collected by the Department of the Air Force.

R.F. KELLER

[Deputy] Comptroller General
of the United States