

DECISION

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

FILE: B-208232

DATE: December 2, 1982

MATTER OF: William H. Tueting - Actual Subsistence Expenses for Personal Travel While on Temporary Duty

DIGEST:

Employee, whose official duty station was Washington, D.C., was on temporary duty assignment in New York City. He took annual leave on Thursday and Friday and utilized the weekend to attend a family funeral in Denver. He returned to his temporary duty site on Sunday. Although the employee would be entitled to subsistence expenses for Saturday and Sunday as provided for in the Federal Travel Regulations, he is not entitled to the constructive cost of 2 days subsistence as an offset against the cost of his travel to and from Denver.

May an employee be reimbursed the constructive amount of actual subsistence expenses for a weekend as an offset against the cost of his personal travel away from his temporary duty station?

We hold that the employee is not entitled to constructive subsistence expenses as an offset against the airline expenses he incurred in traveling to attend a family funeral.

Mr. William H. Tueting, an employee of the U.S. Customs Service, was sent to New York on temporary duty for the period January 15 to January 29, 1982. On Thursday January 21, he took leave due to a death in the family, traveled to Denver to attend the funeral, and returned to his temporary duty site on Sunday night. Mr. Tueting's official duty station is in the District of Columbia.

Mr. Tueting claims the maximum subsistence allowed for Saturday and Sunday of \$150, less \$53.97 that he has been reimbursed for a meal and lodging on Sunday. Thus, he claims \$96.03 in order to offset part of the cost of

B-208232

the airfare between New York and Denver. He is in effect requesting constructive cost for the period that he spent away from his temporary duty site.

Mr. Tueting's claim was denied by the Customs Service in reliance upon 47 Comp. Gen. 59 (1967); 45 Comp. Gen. 299 (1965), and Mark N. Jacobs, B-184496, November 9, 1976. The cited cases held that reimbursement for travel expenses was limited to the cost of official travel to the point of abandonment, where an employee abandons his official travel status because of death or illness in the family. These cases clearly indicate that Mr. Tueting is not entitled to reimbursement of his airfare to Denver, since the trip was of a personal nature. However, he is not arguing that he should be reimbursed for all of his travel expenses. Instead, he argues that he was entitled to the subsistence allowance he would have received if he had remained in New York for the weekend.

Mr. Tueting relies on FTR paragraphs 1-7.5a(2) and 1-8.4d. Paragraph 1-8.4d provides that a traveler shall be considered in a subsistence status on nonworkdays under the same rules applicable in FTR paragraph 1-7.5a(2) with regard to the payment of per diem. Paragraph 1-7.5a(2) of the FTR provides that:

"A traveler is considered to be in subsistence status on nonworkdays unless he/she returns to his/her official station or place of abode from which he/she commutes daily to his/her official station, or unless he/she is in a leave status at the end of the workday preceding the nonworkday(s) and at the beginning of the workday following the nonworkday(s)* * *."

The above provision indicates that subsistence is payable on weekends unless both Friday and Monday are spent in a leave status. Mr. Tueting was on annual leave on Thursday and Friday. He returned to his temporary duty site in New York on Sunday. Thus, the nonworkdays

were not immediately preceded and followed by a leave of absence, and Mr. Tueting would be entitled to subsistence for the nonworkdays. 31 Comp. Gen. 144 (1951). However, the question here is whether he is entitled to the constructive cost of subsistence as an offset against his airfare to and from Denver.

The location at which an employee chooses to spend nonworkdays while in travel status is of no particular concern to the Government insofar as it does not interfere with the performance of assigned duties. Thus, the employee's entitlement to per diem or actual subsistence expenses as authorized continues unless otherwise restricted under provisions of the FTR pertaining to return to official station on nonworkdays. See FTR paragraphs 1-7.5(c) and 1-8.4(f).

Paragraph 1-8.4f authorizes reimbursement of round-trip transportation expenses and actual subsistence en route incident to an employee's voluntary return to his residence or official station on nonworkdays, limited to the necessary travel and subsistence expenses which would have been allowable if the traveler had remained at his temporary duty station. By its terms that provision is limited in application to instances in which the employee returns to his "official station or his place of abode from which he commutes daily to his official station." Its inclusion in the travel regulation is attributable to the long-standing principle expressed at FTR paragraph 1-7.6a that neither per diem nor subsistence expenses may be allowed at the employee's permanent station or place of abode. Where an employee on temporary duty travels on his nonworkdays to a location other than his headquarters or residence the provision in FTR paragraph 1-8.4f for reimbursement of round-trip transportation and actual subsistence en route does not come into play. Nor does FTR paragraph 1-8.4f entitle the employee to reimbursement of transportation costs incurred for personal reasons. Sarah S. Ivey, B-200262, January 6, 1982.

Mr. Tueting has not claimed any subsistence expenses for the time spent in Denver, and we were advised that he incurred no lodging expenses there. Therefore, subsistence expenses are not reimbursable. Since the regulations do not provide for reimbursement of personal transportation costs, nor contemplate reimbursement based

B-208232

on comparative costs, there is no authority under which Mr. Tueting's claim may be allowed. See Phillip J. Sullivan, B-205696, June 15, 1982.

In view of the foregoing, payment of the claim is not authorized.

for *Milton J. Aoulan*
Comptroller General
of the United States

B I L L A N I K

P A G E 1 5

END