

DECISION



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

FILE: B-221634

DATE: June 24, 1986

MATTER OF: John D. Tree, Jr.

DIGEST:

Under the "30-minute rule" an employee who completes temporary duty travel within 30 minutes after the beginning of a per diem quarter must provide a statement on his travel voucher explaining the official necessity for his arrival time in order to receive per diem for that quarter. That statement should demonstrate that he departed from his temporary duty station promptly following the completion of his assignment and that he proceeded expeditiously thereafter. Where statement furnished by employee fails to address promptness of departure, agency properly denied claim for an additional quarter day of per diem submitted by an employee who returned to his residence at 6:10 p.m.

In this case involving an employee who completed temporary duty travel at 6:10 p.m. we find that the United States Army Corps of Engineers properly applied the "30-minute rule" in denying his claim for per diem for the fourth quarter of that day.

Background

Mr. John D. Tree, Jr. was authorized travel expenses, including per diem and transportation by Government vehicle to attend a hydroelectric power supervisors conference at Vicksburg, Mississippi, between October 25 and October 28, 1982. He drove from West Point, Georgia, his permanent duty station, to Vicksburg, Mississippi, on October 25th and commenced the return trip at 10:45 a.m., October 28, 1982, arriving at his residence in West Point at 6:10 p.m. the same day.

Mr. Tree claims per diem for the fourth quarter of the day of October 28, 1982. The fourth quarter of the day is

the 6-hour period between 6 p.m. and 12 midnight. The disbursing officer denied Mr. Tree's claim under the "30-minute rule" which provides:

"* * * when the time of departure is within 30 minutes prior to the end of a quarter day, or the time of return is within 30 minutes after the beginning of a quarter day, per diem for either such quarter will not be allowed unless a statement is included with the voucher explaining the official necessity for the time of departure or return."

This limitation on the beginning and ending of per diem entitlement is set forth in Joint Travel Regulations, vol. 2 (2 JTR) para. C4557 (Change 131, September 1, 1976).

Mr. Tree stated on his travel voucher that his return at 6:10 p.m. was justified because of the time required to travel from the temporary duty site to his residence. The disbursing officer advised Mr. Tree that his justification for arrival at 6:10 p.m. was insufficient and failed to meet the requirement set forth in 2 JTR para. C4557 for a statement on the travel voucher "explaining the official necessity for the time * * * of return." Responding to the memorandum, Mr. Tree explained that the return trip covered a distance of 371 miles, involved 6 hours and 25 minutes of travel time and spanned two normal meal periods. He claims that the travel was performed prudently as required by 2 JTR para. C4464 (Change 156, October 1, 1978). Notwithstanding this explanation, the Army Corps of Engineers recommends disallowance of the claim for two reasons. It cites Mr. Tree's failure to specify why the travel could not have been completed prior to 6 p.m. and the travel approving official's failure to approve Mr. Tree's return after the beginning of the fourth quarter as a matter of official necessity.

Our Claims Group, by settlement certificate Z-2847113, dated November 6, 1985, disallowed Mr. Tree's claim because the Army Corps of Engineers had not determined that his return within 30 minutes after the beginning of the fourth per diem quarter was justified for reasons of official necessity. It pointed out that it is the agency's responsibility to make this determination and that the General

Accounting Office will not question its determination unless it is clearly shown to be arbitrary and capricious. See Gustav W. Muehlenhaupt, 55 Comp. Gen. 1186, 1188 (1976). The Claims Group concluded that the agency's determination to disallow the fourth quarter per diem was not arbitrary or capricious.

Discussion

The purpose of the "30-minute rule" and the adequacy of the justification required by the regulation are discussed in Gustav W. Muehlenhaupt, 55 Comp. Gen. at 1188. The rule is "intended to ensure that an employee schedules departure in a prudent manner and completes return travel expeditiously." This decision explains that an employee's justification for return within 30 minutes after the beginning of a per diem quarter should establish that he departed on the return trip at the earliest possible time and traveled expeditiously, arriving home as soon as practicable. The justification offered by the claimant in the Muehlenhaupt case satisfied both requirements. It traced the employee's activities showing that he performed official duty until noon and departed from his temporary duty station promptly after lunch. In addition, it provided information which established that after departure, he proceeded expeditiously. He made connections with the first scheduled airline serving his permanent duty station. He arrived at his destination airport at 5 p.m. and, after collecting his luggage, drove the 40-mile distance to his residence, arriving there by 6:15 p.m.

Mr. Tree's voucher contains only the following statement:

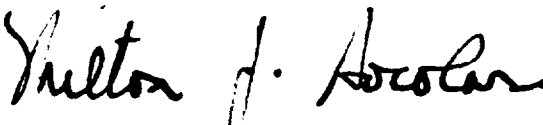
"The arrival time is justified due to the time required to travel from the TDY site to my residence. Statement to comply with SAMDR 55-1-5."

This statement merely expresses a conclusion. It does not provide information which would justify a determination that there was an official necessity for his return at 6:10 p.m. Mr. Tree has now supplemented that statement with information that the distance between his temporary duty site and his residence was 371 miles and that he drove that distance

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in 6 hours and 25 minutes. This information, indicating that he proceeded at a rate slightly in excess of 55 miles per hour, provides a sufficient basis for the travel approving official to have determined that Mr. Tree proceeded expeditiously following his departure. It does not, however, provide a basis for a determination that he departed from his temporary duty station promptly following the completion of his temporary duty assignment. To establish per diem entitlement for arrival within 30 minutes after the beginning of a per diem quarter, prompt departure as well as expeditious travel must be shown to establish an official necessity for the time of return.

Because Mr. Tree did not provide a sufficient justification for his arrival time we sustain the disallowances by the United States Army Corps of Engineers and by our Claims Group.


for Comptroller General
of the United States