

Putnam



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Robert R. Hollister

File: B-238601

Date: October 4, 1990

DECISION

We are asked whether Mr. Robert R. Hollister, an employee of the Federal Bureau of Investigation (FBI or Bureau), may be granted an additional 24 days of temporary quarters subsistence expenses (TQSE) beyond the 90 days of temporary quarters previously granted.^{1/} We hold that the FBI properly denied Mr. Hollister's request for approval of the final 24 days of his occupancy of temporary quarters.

Mr. Hollister was transferred from Minneapolis, Minnesota, to New York City, effective January 4, 1988. He commenced temporary quarters occupancy upon his arrival in New York City on that date, without having taken a househunting trip to seek permanent residence quarters.

On January 14, 1988, Mr. Hollister executed an agreement to purchase an existing residence in New Jersey with settlement to occur on April 25, 1988. The settlement was finalized on that date.

Mr. Hollister was initially granted 60 days for the occupancy of temporary quarters. On April 8, 1988, he requested an extension of 54 days beyond the 60-day period. The FBI granted 30 days of the 54 days requested, based upon Mr. Hollister's diligent efforts to successfully execute a contract for permanent housing within 10 days after arriving in New York without the benefit of a househunting trip and the Bureau's knowledge of housing prices in the greater New York area. The FBI states that it limited Mr. Hollister's extension to 30 days to be consistent with decisions rendered to other employees with similar circumstances during that period and was made in conjunction with provisions of the Federal Travel Regulations. The agency also submitted a copy of the FBI Employee Relocation Handbook which states, in pertinent

^{1/} The request was submitted by Mr. William E. Burrows, Jr., Authorized Certifying Officer, Federal Bureau of Investigation, U.S. Department of Justice.

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part, that approval of an extension will be granted only for compelling reasons such as unavailability of the new residence due to settlement delay. The Bureau feels that our decision, John J. Goglia, B-235177, Aug. 23, 1989, supports its position in this matter.

Mr. Hollister has submitted additional factual information showing that he made diligent efforts to locate and purchase a residence in the New York area. He states that the April 25 settlement date was set to coincide with the construction of a residence by the sellers which would not be ready for occupancy until that date. He states that the house he purchased was the only decent livable housing he could locate which was in his price range. He contends that these facts, along with his efforts to keep his transfer and temporary quarters expenses at a minimum, constitute compelling reasons for reimbursement of the entire 54 days of additional TQSE requested.

An agency may pay a transferred employee subsistence expenses for himself and his immediate family for an initial period of not more than 60 days while occupying temporary quarters and may grant an extension, not to exceed 60 additional days, provided the agency determines that there are compelling reasons for the continued occupancy of temporary quarters, due to circumstances which have occurred during the initial 60-day period of occupancy and which are beyond the employee's control and acceptable to the agency.^{2/} Agency determinations are to be made on an individual-case basis.^{3/}

Under paragraph 2-5.2a(2) of the FTR, an agency may grant an extension of up to 60 days only where there is a demonstrated need for an extension due to circumstances beyond the employee's control occurring within the initial 60-day period of temporary quarters. Examples of compelling reasons include the inability of an employee to occupy a new residence due to unanticipated problems such as delay in settlement.

Here, in recognition of Mr. Hollister's diligent efforts to successfully execute a contract for permanent housing within 10 days after arriving in New York, without the benefit of a househunting trip, and the Bureau's knowledge of housing prices in the greater New York area, the FBI attempted to maximize his reimbursement and granted an extension of 30 days

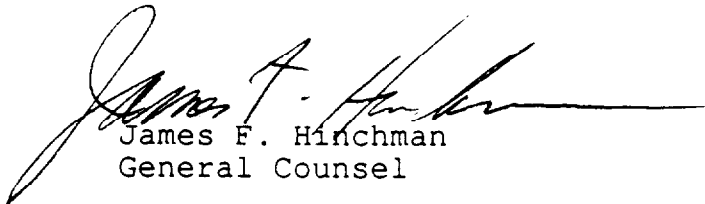
^{2/} 5 U.S.C. § 5724a(a)(3) (1988); para. 2-5.2, the Federal Travel Regulations (FTR) (Supp. 10, Mar. 13, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1988).

^{3/} FTR, para. 2-5.1; Rosemary A. Smith, B-235787, Nov. 20, 1989, 69 Comp. Gen. _____.

for the occupancy of temporary quarters, beyond the 60-day period previously granted. We have interpreted the temporary quarters regulations in the FTR as granting an agency broad discretion to limit the period of temporary quarters, and we will not challenge an agency's determination absent evidence that it was arbitrary, capricious, or contrary to law.^{4/}

In light of the discretion granted to the FBI to limit the period of temporary quarters, and where, as here, an extension of 30 days beyond the initial 60-day period of occupancy has been granted to Mr. Hollister, we find no basis to conclude that the Bureau's determination not to grant the remaining 24 days of temporary quarters occupancy as being arbitrary, capricious, or an abuse of discretion.

Accordingly, we sustain the FBI's denial of Mr. Hollister for an additional 24 days of temporary quarters.



James F. Hinchman
General Counsel

^{4/} John J. Goglia, B-235177, Aug. 23, 1989; Alexander D. Bell, B-201382, Aug. 26, 1981.