



**Comptroller General  
of the United States**

Washington, D.C. 20548

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## Decision

**Matter of:** Linda M. Lilly – Temporary Quarters – Occupancy by  
Family Members

**File:** B-258446

**Date:** July 11, 1995

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### DIGEST

A transferred employee was authorized 60 days of subsistence expense reimbursement for herself and her immediate family. The employee began her temporary quarters period immediately upon reporting for duty at the new duty station. The other members of the family thereafter vacated the residence at the old duty station at different times and joined her in temporary quarters. Under 41 C.F.R. § 302-5.2, subsistence expense reimbursement incident to occupying temporary quarters for any individual does not arise until that person vacates the residence at the old station and ends when the authorized period is completed or permanent quarters are occupied, whichever is sooner. Where an individual is absent from temporary quarters overnight for vacation, to return to and reoccupy the residence at the old duty station before it is disestablished, or to attend camp or other overnight outing which was planned independently of the transfer, subsistence expenses (including lodging, meals, and incidental expenses) may not be reimbursed for that person for any such day.

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### DECISION

This decision responds to a request from the National Finance Center (NFC), United States Department of Agriculture (USDA).<sup>1</sup> The question raised involves the entitlement of a transferred employee to be reimbursed additional subsistence expenses incident to occupancy by the employee and members of her immediate family of temporary quarters during June and July 1993. We conclude that the employee is entitled to certain additional subsistence expenses for the following reasons but payment should not be allowed on certain others, as explained below.

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<sup>1</sup>Ms. Susan C. Lauga, Authorized Certifying Officer, Office of Finance and Management (Reference FSD-1 RJP).

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## BACKGROUND

Ms. Linda M. Lilly, an employee of the Forest Service, USDA, was transferred from Potlatch, Idaho, to Kamiah, Idaho. She was authorized 60 days' subsistence expenses for herself, her spouse, and three dependent children while occupying temporary quarters. She vacated the family residence at the old duty station and reported for duty at her new duty station on June 2, 1993. She immediately began her period of temporary quarters occupancy. According to the temporary quarters expense report filed in her case, the period of her temporary quarters extended until July 30 when she and the other members of her family occupied permanent quarters. However, Ms. Lilly did not claim temporary quarters expenses for 6 days in June and 5 days in July, nor did all of her family occupy temporary quarters throughout the period.

A narrative prepared by Ms. Lilly stated that her three children remained with her husband at their residence at the old duty station until their school year ended. They then moved into her temporary quarters on June 6, 1993. Ms. Lilly states that her children were with her in temporary quarters from June 6 until July 30, 1993, except for periods during which they stayed with friends, attended camps, or engaged in other summertime activities. On July 30, 1993, the entire family entered permanent quarters. Mr. Lilly remained in the family residence at the old duty station for work-related reasons and did not join the rest of the family in temporary quarters until the movers removed all their furnishings from the old residence on July 27.

The NFC travel examiner allowed only that part of Ms. Lilly's subsistence expense claim for the period June 2 to June 19, 1993 (\$1,060.05). The expenses claimed from June 20 to July 30, 1993, were disallowed even though Ms. Lilly asserted that she and at least one and often two of her children were living with her in temporary quarters after June 6, 1993. The certifying officer is uncertain as to the correctness of that disallowance and asks whether the employee may be paid for the period after June 20 even though the temporary quarters period was interrupted on several occasions.

## OPINION

The payment to a transferred employee for subsistence expenses while occupying temporary quarters is authorized by 5 U.S.C. § 5724(a)(3) (1988). Section 302-5.2(c) of the Federal Travel Regulation (FTR),<sup>2</sup> provides that the term "temporary quarters" refers to lodging obtained from private or commercial sources for the purpose of occupying it temporarily after vacating the residence occupied at the old duty

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<sup>2</sup>41 C.F.R. § 302-5.2 (c) (1993).

station when the transfer was authorized. Section 302-5.2(f) of the FTR<sup>3</sup> provides that once temporary occupancy is begun by the employee or any member of his/her immediate family, it begins to run concurrently for all members of the family and for consecutive days. Further, section 302-5.2(d) of the FTR<sup>4</sup> provides that absences from temporary quarters for vacation or other personal reasons do not qualify as an interruption of the consecutive days requirement so as to permit an extension of the temporary quarters period.

We have held that where the employee is receiving subsistence expenses incident to occupying temporary quarters at the new station, but returns to his old residence and reoccupies it before it is disestablished, he may not be reimbursed for subsistence expenses for any day spent at the old residence.<sup>5</sup> Conversely, where a member of the immediate family has not vacated the residence at the old station, but visits the employee at the new duty station during the temporary quarters period and then returns to the residence at the old duty station, that member may not be included for subsistence expense reimbursement purposes until he/she has actually vacated the residence at the old duty station.<sup>6</sup>

#### Employee

Ms. Lilly vacated the family residence at the old duty station on June 2, 1993, and moved into temporary quarters. Therefore, she is entitled to reimbursement for subsistence expenses for each day she was in temporary quarters between June 2 and July 30, 1993, except for the days for which she made no lodging expense claim (6 days in June and 5 days in July).

#### Spouse

According to the file, Mr. Lilly remained at the residence at the old duty station and did not vacate it until the movers removed all the furnishings on July 27. Although it is indicated that he periodically spent time with the family at the new duty station prior to the date that the residence at the old duty station was disestablished, Ms. Lilly would not be entitled to reimbursement on his behalf for subsistence

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<sup>3</sup>41 C.F.R. § 302-5.2(f) (1993).

<sup>4</sup>41 C.F.R. § 302-5.2(d) (1993).

<sup>5</sup>Donald R. Barnard, B-254584, Oct. 5, 1994. See also Regina W. Bonds, B-239153, July 30, 1991.

<sup>6</sup>George L. Daves, 65 Comp. Gen. 342 (1986) and decisions cited.

expenses incurred prior to July 27, 1993, since the residence at the old duty station remained his residence until then.<sup>7</sup>

#### Dependent Children

The three children began their occupancy of temporary quarters on June 6. Except for brief periods when each of them was away from those temporary quarters, they occupied those quarters with Ms. Lilly until the family moved into permanent quarters on July 30. We have held that when a child is away from temporary quarters attending a camp, or for other activities, the arrangements for which were made independently of the transfer, subsistence expenses are not payable on behalf of those children for days spent by them away from temporary quarters.<sup>8</sup>

Therefore, Ms. Lilly may not be reimbursed subsistence expenses on behalf of the oldest daughter for the period June 21-25 when she stayed with a friend and her family; the youngest daughter for the period July 20-23 when she also stayed with a friend and her family; her son for the periods July 13-16 while at camp, and July 20-24 while with a friend and on a camping trip; nor may subsistence expenses be paid on their behalf for any days/nights they stayed in the residence at the old station.

We are remanding the matter to the National Finance Center, USDA, for recomputation of Ms. Lilly's subsistence expense reimbursement in accordance with this decision.

/s/ Seymour Efros  
for Robert P. Murphy  
General Counsel

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<sup>7</sup>George L. Daves, footnote 4, supra.

<sup>8</sup>B-167976, Oct. 30, 1969.