

DECISION



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

685

FILE: 8-182446

DATE: AUG 20 1975

MATTER OF: Reimbursement for excess costs while living off post - SPC , U.S. Army

DIGEST: Member unaccompanied by his dependents attended course of instruction at Suitland, Maryland, for approximately 8 months during which time Government quarters were unavailable and separate rations were authorized. He received basic allowance for quarters and basic allowance for subsistence. Member's claim for reimbursement of the substantial additional costs he incurred while living off post must be denied since there is no provision of law authorizing reimbursement in addition to the allowances already received.

This action is in response to a letter from Sergeant First Class , U.S. Army, , dated September 11, 1974, wherein he requests reconsideration of our Transportation and Claims Division settlement of January 14, 1974, which disallowed his claim for additional allowances as reimbursement for \$3,000 additional costs including meals and lodging, for the period from November 2, 1972, to July 9, 1973, incurred while he was assigned to the Defense Language Institute, Suitland, Maryland.

The record shows that by Special Orders No. 210, dated October 18, 1972, issued by Headquarters, John F. Kennedy Center for Military Assistance, Fort Bragg, North Carolina 28307, the member was ordered to proceed on a permanent change of station and assigned to Student Company, Troop Command, Military District of Washington, Silver Hill Road, Suitland Annex, Suitland, Maryland 20023, to attend a foreign language course conducted by the Defense Language Institute, beginning November 2, 1972, and ending July 17, 1973. By Unit Orders No. 115, dated November 8, 1972, issued by Headquarters, Student Company, Troop Command, Military District of Washington, Suitland Annex, he was authorized separate rations effective November 2, 1972, in accord with a verbal order of the commanding officer on that date, as quarters were not available. Although his family did not accompany the member to Suitland, Maryland, Sergeant was paid a basic allowance for quarters at the with dependent rate of \$161.40 per month and a basic allowance for subsistence at the rate for an enlisted man authorized to mess separately.

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By settlement dated January 14, 1974, our Transportation and Claims Division disallowed Sergeant King's claim for reimbursement for costs of meals and lodging while attending the Defense Language Institute because it appeared that he had been correctly paid the amounts due him under the law, and that there was no authority for paying him any additional amount.

Additionally, in his letter the member refers to a recommendation by the Finance Center, U.S. Army, that in view of the fact that the member's orders were silent as to travel of dependents at Government expense, family separation allowance, type 1, be allowed.

The member contends that he did not desire to live off post because of the financial burden and other hardships it would entail, but that all efforts to obtain quarters on post proved futile. He says further that he was under the impression that Government quarters and mess would be provided, but upon arrival at Suitland, Maryland, he was informed that quarters were not available, and hence, found it necessary to rent an apartment, buy furniture, and obtain his meals off base at a cost of \$5,000 for the 8-month period. This financial burden which caused the member to obtain several loans is the basis of this claim for additional allowances.

In accord with 37 U.S.C. § 404 (1970), Volume 1, Joint Travel Regulations, paragraph Mil 50-10b, Change 228, February 1, 1972 (now contained in Appendix J of the regulations), provides as follows:

"* * * When a member is transferred or assigned under permanent change-of-station orders to a school or installation as a student to pursue a course (or courses) of instruction, the cumulative duration of which is 20 weeks or more at one location, such school or installation is defined to be a permanent duty station."

As Sergeant was assigned for a course of instruction in excess of 20 weeks at the Defense Language Institute, his orders for duty there were properly considered to direct a permanent change of station. Consequently, the member is not entitled to per diem allowances provided for travel and temporary duty within the United States in Part E, Chapter 4 of Volume 1 of the Joint Travel Regulations.

In accord with 37 U.S.C. § 427(a)(1970), Department of Defense Military Pay and Allowances Entitlements Manual, paragraph 30303, provides that family separation allowance, type 1, is payable

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to a member with dependents who is on permanent duty outside the United States, or in Alaska, where the transportation of his dependents to the area of his permanent duty station is not authorized at Government expense, his dependents do not live at or near his permanent duty station, and Government quarters or housing facilities are not available for assignment to him.

Clearly, in view of the foregoing, Sergeant is not entitled to such allowances since, while at the Defense Language Institute, he was on permanent duty within the United States. Additionally, incident to his orders the member was entitled to Government transportation of his dependents to the Suitland, Maryland area.

It is regrettable that Sergeant was unable to obtain Government quarters while at the Defense Language School and that he experienced substantial housing and subsistence expenses while living off-post. However, there is no provision of law which would allow a member in his circumstances more than the applicable rate of basic allowance for quarters, and basic allowance for subsistence, which he was paid.

In view of the above, the disallowance of Sergeant claim by settlement dated January 14, 1974, is sustained.

R.F. KELLER

| Deputy Comptroller General
of the United States