

DECISION

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

FILE:

DATE: JUN 20 1975

MATTER OF: **B-183403**

DIGEST:

Fred T. Casteel - Subsistence while occupying temporary quarters

Employee transferred from Washington, D. C., to Madison, West Virginia, moved into temporary quarters in Madison and on occasional weekends visited house family owned in Summersville, West Virginia. Payment of temporary quarters allowance for period claimed is proper since employee vacated residence quarters in which residing at time transfer was authorized--rented apartment in D. C. area--was required by regulations. Courts have defined "residence" as person's actual place of abode, whether temporary or permanent. Employee resided in D. C. area and no indication exists of any intention to depart therefrom prior to notification of transfer to Madison.

Jeannette B. Wilbanks, an Authorized Certifying Officer of the Bureau of Mines, United States Department of the Interior, by letter of March 4, 1975, requested an advance decision of that portion of a travel voucher submitted by Mr. Fred T. Casteel, an employee of the Bureau of Mines, for which he seeks reimbursement for subsistence while occupying temporary quarters under the circumstances stated below. The certifying officer apparently does not question the remainder of the travel voucher involving reimbursement of mileage and per diem in lieu of subsistence.

Ms. Wilbanks states that Mr. Casteel was transferred from Summersville, West Virginia, to Washington, D. C., on February 3, 1974, and that he rented a furnished apartment in the Washington, D. C. area. However, his household effects were never moved to the new duty station and apparently he neither sold nor rented his former residence in Summersville. On July 7, 1974, Mr. Casteel transferred to Madison, West Virginia. According to his voucher, he arrived in Madison on July 7, 1974, and lodged with friends. He was required to perform official travel back to Washington, D. C., from July 10 through July 13, 1974. The following day, July 14--the first day for

which temporary quarters is claimed--Mr. Casteel moved his family into a motel outside of Madison where they continued to reside through the end of the period for which temporary quarters is claimed (August 17, 1974). This period was interrupted twice for official travel--July 25 through July 27, 1974, and August 2 through August 3, 1974. Also, the Casteels returned to their house in Summersville for brief visits during this period; specifically, the weekends of August 3 and 4, 1974, and August 10 and 11, 1974. (Subsistence while occupying temporary quarters is not claimed for these weekends.) It is also stated that the Casteels' household effects were not moved from Summersville to Madison until October 29, 1974.

The certifying officer questions whether the Casteels may be considered to have vacated their former residence within the meaning of Federal Travel Regulations (FPMR 101-7) para. 2-5.2.c (May 1973), since they twice returned to their Summersville house during the period for which temporary quarters is claimed.

Paragraph 2-5.2.c, Federal Travel Regulation (May 1973), provides:

"The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

Since it is clear that the Casteels were residing in quarters in the Washington, D. C. area when the change of station was authorized, the Certifying Officer's doubt apparently turns on the meaning of the term "residence," and on whether the Summersville house or the rented apartment in the Washington, D. C. area was their residence for the purposes of the above-quoted section.

The term "residence" has been defined as a person's actual place of abode, whether permanent or temporary. Hall v. Wake County Bd. of Elections, 280 N.C. 600, 187 S.E. 2d 52 (1972). Residence may be temporary or permanent in nature but generally requires some condition greater than mere lodging; it implies a place of abode, albeit temporary, rather than mere transient lodging. Whitney v. State, 472 S.W. 2d 524 (Tex. Cr. App. 1971). The record here indicates that Mr. Casteel was transferred to the Washington, D. C. area; that he established quarters there for himself and members of his family; and,

that he and members of his family resided there from February 1974 until he was transferred to Madison in July 1974. There is no indication that he had any intention of leaving prior to notification of his transfer to Madison. Therefore, the furnished apartment in the Washington, D. C. area must be considered to be the Casteels' residence at the time that the transfer to Madison was authorized. It follows that, under the above definition of "residence," the house in Summersville, which the Casteels owned but did not occupy, cannot be considered to be their residence at the time that the transfer to Madison was authorized. In any event, we do not view a temporary return to a former residence as invalidating a prior vacating of such residence where an intent to permanently vacate such residence had been manifested. See B-168649, January 20, 1970, copy enclosed.

We note that Mr. Casteel has not supplied receipts for lodging for each day for which temporary quarters is claimed, as required by the Federal Travel Regulations (FPMR 101-7) para. 2-5.4.b (May 1973). Specifically, he claims reimbursement for lodging totaling \$570.62, but he has submitted receipts only for lodging totaling \$521.18. Reimbursement for lodging should be limited to the latter amount, unless Mr. Casteel supplies lodging receipts for the balance of the time he occupied the temporary quarters.

In view of the above, the voucher submitted is returned with the supporting papers and may be certified for payment with the exceptions noted above if otherwise correct.

R. F. KELLER

Acting Comptroller General
of the United States

Enclosures