

DECISION

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

FILE: B-184618

DATE:

APR 16 1976

MATTER OF:

Rosemary M. Gilead — claim for temporary
quarters subsistence allowance

DIGEST:

- (1) Defense Department employee's claim for reimbursement of temporary quarters subsistence allowance—laundry and meal expense—incurred incident to transfer to new official duty station in the Canal Zone is allowable where claimant intended to move to family type quarters when they became available even though the claimant had been assigned permanent bachelor type quarters upon arrival but chose to live in temporary vacation quarters during the 30 day period of entitlement.
- (2) Taxi fares are authorized to be reimbursed by 2 JER Para. C6101, when necessitated by change from one common carrier to another enroute. Claimant, enroute to new official duty station took taxi from Charleston Airport to Charleston Air Force Base at cost of \$5. Section XIV of DAR Circular No. 55-74 which lists costs of taxi between Charleston Airport and Charleston Air Force Base as \$2 is not dispositive of the issue, merely advisory. However, in absence of an explanation as to additional cost, the \$3 may not be reimbursed.

This is in response to a request by the Per Diem, Travel and Transportation Allowance Committee, PDTATAC Control No. 75-23, for an advance decision whether Mrs. Rosemary Gilead is entitled to temporary quarters subsistence expenses for the cost of meals and laundry incurred for the period October 29, 1973, through November 30, 1973. In addition, we are asked to determine whether Mrs. Gilead is entitled to \$3 taxi fare which was previously disallowed.

The pertinent facts as they appear in the record are that Mrs. Gilead was transferred to her new official duty station in the Canal Zone effective October 28, 1973, to be joined later by her daughter and dependent mother. Incident to the transfer, Mrs. Gilead flew from National Airport, Washington, D.C., by commercial airlines to Charleston, South Carolina, Airport. Upon arrival at Charleston Airport, Mrs. Gilead hired a taxi to take her to Charleston Air Force Base for which she claimed reimbursement of \$5. Pursuant to section XIV of Department of the Army Circular No. 55-74 which lists the taxi fare from Charleston Airport to Charleston Air Force Base as \$2, \$3 was disallowed in the absence of an explanation by the claimant of the excess cost.

Mrs. Gilead arrived in the Canal Zone on October 28, 1973. For the period of October 29, and 30, 1973, Mrs. Gilead was allowed temporary quarters expense of \$19.65. However, as of October 31, 1973, Mrs. Gilead was assigned Government quarters in Curundu, Canal Zone, with furniture in the quarters or available. At the same time, she was enrolled on the waiting list for family quarters, which she was ultimately assigned in December, 1974. Nevertheless, the quarters assigned to Mrs. Gilead on October 31, 1973, were considered permanent type quarters, suitable for individuals who arrive in an unaccompanied or bachelor status. During the period in question, however, Mrs. Gilead elected to reside in temporary vacation quarters in Cocoli, Canal Zone.

The record also indicates that Mrs. Gilead's unaccompanied baggage arrived in the Canal Zone on October 31, 1973, and was available for delivery on or after this date. The baggage, however, was not delivered until November 27, 1973, and Mrs. Gilead occupied her assigned quarters three days later on November 30, 1973.

Section 5724a(a)(3) of title 5, United States Code, authorizes the payment of subsistence expenses incurred by an employee "while occupying temporary quarters." For implementing regulations, see Federal Travel Regulations (FFR 101-7) Part 5 (May 1973); and 2 JTR Para. C8250. Essentially, the question here is whether Mrs. Gilead was occupying "temporary quarters" as defined in the pertinent regulations and as construed in our decisions. See 47 Comp. Gen. 84 (1967); and B-173585, September 17, 1971. In this regard, we have stated in the past that a determination as

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to what constitutes "temporary quarters" is not susceptible of precise definition but rather depends upon the facts of each case, giving particular weight to the expressed intent of the employee as manifested by words and actions at the time the quarters in question are occupied. B-173585, supra. By applying for family quarters suitable for herself, her daughter, and her dependent mother, she manifested her view of the quarters initially assigned as only temporary. Moreover, the type of residence or their characterization is immaterial in determining whether the claimant intended to reside in the quarters on a temporary or permanent basis. B-179870, September 26, 1974.

Accordingly, Mrs. Gilead may be reimbursed in the amount of \$337.90, representing food and laundry costs from October 31, 1973, to November 30, 1973, if otherwise correct.

As to the \$3 taxi fare, 2 JTR Para. C9601, provides for the reimbursement of the usual taxi fares in accordance with Chapter 6, Part C, which in turn provides for the use of taxis between common carrier terminals while enroute when necessitated by change from one carrier to another. 2 JTR Para. C6101. Here, Mrs. Gilead claims a taxi fare of \$5 between the Charleston Airport and the Charleston Air Force Base which amounts runs contra to section XIV of Department of the Army Circular No. 55-74 which lists \$2 as the going rate between the Charleston Airport and the Charleston Air Force Base. While section XIV of DA Circular No. 55-74 is not dispositive, merely advisory, and as such, does not preclude the reimbursement of fares in excess of \$2, we cannot certify payment of the additional \$3 in the absence of an explanation of the excess cost.

R. F. Keller

Deputy Comptroller General
of the United States