

Peter Jannicelli

Civ. Pers.

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**DECISION**



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

FILE: B-184790

DATE: December 9, 1976

MATTER OF: Merrill Eig - Actual Subsistence Expenses

**DIGEST:**

Army employee's 6-month temporary duty assignment in London was interrupted by peripheral temporary duty assignments in other countries. Employee may not be paid actual expenses allowance based upon dual lodging costs incurred by retaining London accommodations while on temporary duty outside of London, since appropriate officials have made no determination that due to unusual circumstances employee had no alternative but to maintain dual lodging nor approved subsistence on an actual expenses basis for periods involved.

This decision is in response to an appeal from a settlement of our Transportation and Claim Division (now Claims Division), Z-2556747, June 27, 1975, which disallowed a claim for reimbursement for lodging expenses in addition to per diem by Mr. Merrill Eig, a civilian employee of the Department of the Army.

Mr. Eig was assigned to temporary duty for 6 months in London. Subsequent to his arrival in London, Mr. Eig's travel orders were amended to further assign him to very short periods of temporary duty in France, Germany, Sweden, Norway and various other locations in the United Kingdom. Mr. Eig's travel away from London totalled 55 days. Mr. Eig rented an apartment in London in accordance with instructions contained in his travel orders under the supervision of the local headquarters. He paid rent at the rate of \$10.80 per day for the apartment during his entire temporary duty assignment including those periods of temporary duty at other locations.

Mr. Eig claims additional expenses of \$594 (\$10.80 per day for the 55 days that he maintained accommodations in areas other than London). He submitted his claim to the U.S. Army Finance Support Agency and that agency forwarded the claim to our Office for settlement with the recommendation that it not be paid since there is no regulation that covers duplicate payments of lodging costs. Our Transportation and Claims Division notes in its

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settlement that generally an employee may not receive reimbursement of actual expenses when per diem is being paid because per diem covers such expenses. Also, Mr. Eig was informed that the employing agency is given sole authority to set per diem rates and that our Office has no authority to approve payments of actual subsistence expenses which were not authorized or approved by the employing agency. In the present case, Mr. Eig's travel orders authorized payment of per diem in lieu of actual subsistence expenses. Mr. Eig is, in effect, requesting reimbursement on an actual subsistence expenses basis instead of on the per diem basis which was authorized.

The Federal Travel Regulations provide that authorization or approval of actual subsistence expenses shall be limited to specific travel assignments where it is determined that due to unusual circumstances, the maximum per diem allowance would be much less than the necessary expenses of the traveler. Federal Travel Regulations (FPMR 101-7) para. 1-7.1a and para. 1-8.1a (May 1973). Paragraph 1-8.1e of the Federal Travel Regulations (FPMR 101-7, May 1973) provides in pertinent part as follows:


"\* \* \* If travel (1) is performed without prior authorization or is authorized on a per diem basis and (2) otherwise conforms to this part, the necessary subsistence expenses incurred may be approved within the statutory maximum allowable."

The above language permits reimbursement on an actual expense basis, if otherwise proper and subject to administrative approval, even if travel orders were issued before the travel period and prescribed a per diem allowance in lieu of actual subsistence expenses. However, the regulations make no provision for combining per diem and actual expenses for the same day.

In previous cases involving similar situations, we have held that rental for maintaining dual living accommodations could be reimbursed on an actual expense basis in unusual circumstances provided that an appropriate official of the employing agency or department made a determination that the employee had no alternative but to incur duplicative costs. See B-182600, August 13, 1975, and B-159882, April 27, 1966.

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Nothing in the record before us indicates that a determination has been made that the unusual nature of Mr. Eig's assignment necessitated maintenance of dual lodging. Accordingly, the disallowance of Mr. Eig's claim is sustained. However, if the appropriate officials in the Department of the Army determine that Mr. Eig had no alternative but to retain his lodging in London during the entire period in question and approve subsistence on an actual expense basis for the periods Mr. Eig was on temporary duty assignments outside of London, our Office will reconsider the claim upon receipt of such approval.

  
Deputy Comptroller General  
of the United States