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**DECISION**



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

**FILE:** B-189743

**DATE:** July 10, 1978

**MATTER OF:** Philip Fine - Temporary Quarters Subsistence Allowance

**DIGEST:** Employee, incident to transfer to new duty station, moved into apartment and then moved to another apartment because he was not satisfied with the maintenance, care, and services provided by the management company. Employee claims temporary quarters subsistence allowance for the period in which he lived in this apartment. Claim may not be allowed because employee's intent when he moved in was clearly to occupy quarters on a permanent basis.

This action is in response to the request for an advance decision from Mary E. Wills, an authorized certifying officer of the Internal Revenue Service (IRS), Department of the Treasury, whether she may certify for payment the voucher of Mr. Philip Fine, an employee of IRS, for temporary quarters subsistence allowance claimed in connection with a permanent change of duty station.

Mr. Fine was transferred from Brooklyn, New York, to Washington, D.C., on December 13, 1976. Mr. Fine was authorized a house-hunting trip and temporary quarters subsistence allowance while awaiting the arrival of his household goods. We have been informally advised that Mr. Fine spent December 18 through December 24 in Washington looking for permanent quarters. On January 15 and 16, 1977, Mr. Fine occupied a motel for two days in Washington, D.C., while he was waiting for his household goods to arrive. Mr. Fine's furniture was delivered to an apartment in Alexandria, Virginia, and he moved into this apartment the same day.

Mr. Fine was not satisfied with the maintenance services being provided at the Alexandria apartment. On February 7, 1977, his authorization for temporary quarters was amended because the accommodations at the first apartment were not considered adequate. On February 13, 1977, he moved to another apartment. The issue presented in this case is whether Mr. Fine can be reimbursed temporary quarters subsistence allowance for the period during which he lived in the Alexandria apartment.

The authority for the payment of subsistence expenses while occupying temporary quarters is contained in 5 U. S. C. §5724a (1970), and the implementing regulations, Federal Travel Regulations, (FTR) (FPMR 101-7) (May 1973). The Federal Travel Regulations, para. 2-5.2f, provide that the employee's period of eligibility for temporary quarters allowance terminates when permanent residence quarters are occupied. In addition, FTR para. 2-5.2c provides:


"What constitutes temporary quarters. 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." (Emphasis added).

Our office has consistently held that a determination as to what constitutes temporary quarters must be based on the facts in each case. B-183820, January 2, 1976; and B-182107, February 4, 1975. In past decisions we have considered such factors as the duration of a lease, the movement of household effects into the quarters, the type of quarters, any expressions of intent, attempts to secure a permanent residence, and the period of residence in the quarters by the employee. See B-185440, July 13, 1976, and cases cited therein. These factors are considered in our attempt to determine whether the intent of the employee was to occupy the quarters on a permanent or temporary basis.

It is clear in this case that Mr. Fine intended to occupy the Alexandria apartment on a permanent basis when he first moved in. Mr. Fine's furniture was delivered to this apartment and his explanation given for moving is simply that he was not satisfied with the maintenance, care, and services provided by the management company. There is no evidence in the record that he moved into this apartment with the intent to occupy it on a temporary basis. In these circumstances, temporary quarters subsistence allowance may not be paid for the period during which he lived in the Alexandria apartment.

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Accordingly, the voucher may not be certified for payment.

  
Deputy Comptroller General  
of the United States