

07459 107459

DECISION



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

FILE: B-191110

DATE: September 25, 1978

MATTER OF: Phyllis S. Hutchins - Meals and Lodging

DIGEST: Forest Service, on behalf of summer employees assigned to temporary duty on forest project in Maine, requested lodge owner to furnish them lodging and meals. Employees received per diem and all but one paid owner for lodging and meals. Forest Service may not pay owner amount of unpaid bill since it was personal debt.

This decision is in response to a request dated January 10, 1978, from H. Larry Jordan, an authorized certifying officer of the Department of Agriculture (DA), for a decision whether he may certify for payment a claim from Ms. Phyllis S. Hutchins. The issue is whether the Forest Service may pay Ms. Hutchins, a lodge owner, the amount of \$845.34 for an unpaid bill for meals and lodging incurred by a DA employee.

The record shows that James E. Moore was a GS-3 Forestry Aid with the Forest Service from May 15 through June 24, 1976, and was assigned to the Spruce Budworm Pilot Control Project in Maine. Portsmouth, New Hampshire, was designated as Mr. Moore's official station. He was authorized and paid per diem allowance at the rate of \$22 per day while he performed duty at the project. The only place offering living accommodations in the project area was the Oxbow Lodge owned by Ms. Hutchins. The entire lodge was occupied for approximately 6 to 8 weeks in the summer of 1976 by Forest Service personnel involved in the Spruce Budworm Project. Ms. Hutchins states that, after 5 weeks of providing meals and lodging to the employees without being paid, she contacted the Forest Service office in Upper Darby, Pennsylvania, and was assured that she would receive the money owed to her. Ms. Hutchins also claims that she was advised by Forest Service personnel that the summer employees' checks would be held until their food and lodging bills were paid. Mr. Moore was the only employee on the Spruce Budworm Project who did not pay his bill in full. Also, the Forest Service paid Mr. Moore the amounts due him for per diem when he demanded payment instead of refusing to do so until Mr. Moore paid Mrs. Hutchins for his unpaid lodging and meals. The claim presented here by Ms. Hutchins represents his unpaid balance.

FILE COPY - COMPT GEN

B-191110

The administrative report states that no Forest Service personnel guaranteed payment by the summer employees, although a promise was made to do everything they could to make the employees pay their bills.

Mr. Moore was paid per diem but paid Ms. Hutchins only \$20 on his bill. The Forest Service office in Upper Darby made various unsuccessful attempts to persuade Mr. Moore to pay his bill. It ceased requesting payment in December 1976 when its last letter to Mr. Moore was returned marked "Address unknown."

Subsection 5702 of title 5, United States Code (1976), provides for reimbursement of subsistence expenses of civilian employees incurred in the performance of travel away from post of duty or official business in the form of per diem allowances. Under the implementing regulations, Federal Travel Regulations (FPMR 101-7) para. 1-7.1b (May 1973), the costs for lodging and meals are considered to be expenses included in the form of per diem allowances. In this regard, an individual employee is normally responsible for paying for his own lodgings and meals. While it has been held by this Office that unused hotel reservations contracted for by the Government but not cancelled within a reasonable time prior to the requested date will generally involve liability on the part of the Government to pay for the unused rooms (41 Comp. Gen. 780 (1962), B-121198, August 1, 1955), this principle has no application where there are only agreements between individuals traveling on per diem and the hotels. 48 Comp. Gen. 75 (1968). See also B-181266, December 5, 1974.

Mr. Moore and the other employees were paid per diem allowances to cover their lodging and meal expenses. While the Forest Service apparently reserved lodgings on behalf of 175 employees, it did not enter into a contract with Mrs. Hutchins for the lodging and meals furnished to the employees. Payments for such lodging and meals were made to her by the individual employees with the exception of Mr. Moore. In this connection the record shows that Ms. Hutchins hired a collection agency to attempt to obtain payment from Mr. Moore. Under these circumstances the Forest Service is not liable for Mr. Moore's unpaid bill.

Accordingly, Ms. Hutchins' claim against the Government may not be certified for payment.

R. G. K. 114
Acting Comptroller General
of the United States