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**DECISION**



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

**FILE:** B-191297

**DATE:** August 2, 1979

**MATTER OF:** Jerry Cardinal

**DIGEST:** Civilian employee of Air Force attending training course at Chanute AFB may not be reimbursed for commercial lodging when he chose not to occupy Government quarters. Regulations implementing Public Law 95-111, 91 Stat. 908, state employee may not be reimbursed for commercial quarters unless he obtains statement from the Commanding Officer at training center saying occupation of Government quarters was impractical and employee did not obtain such statement.

This decision responds to the letter of December 15, 1978, reference 1041-RE-03, from Mr. James M. Peirce, President, National Federation of Federal Employees, and designated representative of Mr. Jerry Cardinal, an Air Force civilian employee at Minot Air Force Base. Mr. Peirce presents Mr. Cardinal's claim for reimbursement of commercial lodging expenses incident to a training assignment. For the reasons below, we disallow the claim.

Briefly, Mr. Cardinal was assigned to Chanute Air Force Base (AFB) from November 9 until November 29, 1977, for training. He was assigned quarters on the base, but after one night moved to a nearby Holiday Inn because he felt the Government quarters were substandard. His home base Commanding Officer, Colonel Kenneth L. Holden, told him that if he could, he would authorize per diem to cover occupation of commercial quarters. However, Mr. Cardinal never obtained a statement from the Commanding Officer at Chanute AFB that occupation of quarters was impracticable.

Section 853 of Public Law 95-111, September 21, 1977, 91 Stat. 908, provides that none of the funds of the Department of Defense for fiscal year 1978 are available to pay lodging expenses of any person on official business away from his designated headquarters when adequate Government quarters are available, but not occupied by such person.

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Paragraph C1055 of Volume 2, Joint Travel Regulations (ch. 146, effective October 1, 1977), states the conditions under which an employee may be reimbursed for occupation of commercial quarters.

"1. GENERAL. Although an employee may not be required to utilize Government quarters, when adequate Government quarters are available but not used, the payment of the quarters portion of the per diem or actual expense allowances of any employee on temporary duty away from his designated post of duty may not be made except under the following conditions:

\* \* \* \* \*

"2. [W]hen the commanding officer (or designated representative) responsible for Government quarters at the temporary duty or delay point furnishes a statement to the effect that utilization of Government quarters was impracticable \* \* \*.

\* \* \* \* \*

"2. EFFECT OF ABSENCE OF STATEMENT. In the absence of a statement issued under the provisions of subpar. 1 or unless the non-availability of adequate Government quarters can be ascertained by reference to a publication issued by the Uniformed Service concerned, it shall be assumed that adequate Government quarters were available on any day for which the employee fails to submit an appropriate statement \* \* \* indicating that such quarters were not available or not utilized on that date. \* \* \*" (Emphasis added.)

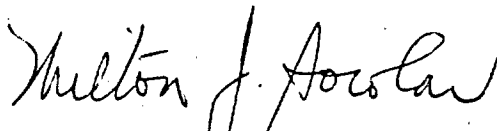
The above regulations require the exempting statement to be issued by the Commanding Officer at the temporary duty station, not the home base Commanding Officer. Thus, Colonel Holden's advice to Mr. Cardinal to occupy commercial quarters does not amount to an authorization to do so. In

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this connection Colonel Holden stated that he told Mr. Cardinal that if it were within his purview he would permit him to move off base and collect per diem at the nonavailability-of-quarters rate.

Under the regulations implementing Public Law 95-111 the determination as to whether Government quarters are adequate is vested in the Commanding Officer who has jurisdiction over those quarters. Although we would not condone a practice of requiring employees to reside in obviously unhealthy or inadequate rooms, we cannot substitute our judgment for the Air Force Commanding Officer in this matter. Since Mr. Cardinal did not obtain a statement from the Commanding Officer at Chanute AFB that the quarters assigned were not adequate, there is no entitlement to reimbursement of the commercial lodging expenses.

In view of the above, Mr. Cardinal's claim is disallowed.



For The Comptroller General  
of the United States