

DECISION



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

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FILE: B-191374

DATE: September 21, 1978

MATTER OF: Mr. James W. Nicks

DIGEST: Employee is not required to stay in vicinity of either present or former permanent duty station in order to be entitled to temporary quarters subsistence expense allowance so long as quarters occupied constitute temporary quarters under the applicable regulations.

This action results from a letter dated February 24, 1978, from Captain M. B. Combs, an accounting and finance officer for the Air Force, requesting our decision as to the entitlement of Mr. James W. Nicks, a civilian employee of the Air Force Communications Service, to temporary quarters subsistence expense (TQSE) allowance.

Mr. Nicks, under Special Order AB 1340 dated September 22, 1977, as amended by Special Order AB 1423 dated September 23, 1977, and AB 2117 dated November 10, 1977, issued by Headquarters 1840 Air Base Wing, Richards-Gebaur Air Force Base, Missouri, was authorized permanent change-of-station travel for himself and his dependents from Richards-Gebaur Air Force Base to Scott Air Force Base, Illinois. His orders authorized 30 days of TQSE allowance.

On November 15, 1977, Mr. Nicks and his family moved into temporary quarters at Grandview, Missouri, in the vicinity of Richards-Gebaur Air Force Base, where they remained until November 17, 1977. From November 18, through 22, 1977, they stayed in temporary quarters in Belleville, Illinois, which is in the vicinity of Scott Air Force Base. On November 23, 1977, the Nickses stayed in temporary quarters in Mayfield, Kentucky, and on November 24, and 26, 1977, they stayed in such quarters in Dickson, Tennessee. On November 25, 1977, they stayed in temporary quarters in Nashville, Tennessee. From November 27, through December 8, 1977, they stayed in temporary quarters in Belleville. Mr. Nicks has stated that he and his family were in temporary quarters because their house was under construction.

Mr. Nicks filed a claim with the Air Force for TQSE allowance for the period of November 15, through December 8, 1977. The Air Force denied him this allowance for the 4 days (November 23

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through 26) since he was not in the vicinity of either his former or present permanent station. The Air Force states its reasoning for denying Mr. Nicks' claim, as follows:

"Our interpretation of Paragraph C13000, Volume II, Joint Travel Regulations is that TQSE is payable only when employee utilizes temporary quarters in the vicinity of the old or new permanent duty stations. The last sentence of Paragraph C13000 states 'Quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangement...' We do not feel that the need for the temporary quarters existed while the employee was on an unofficial trip to Kentucky and Tennessee. If Mr. Nicks had remained in the vicinity of Belleville, Illinois then it is agreed the payment would be allowable. However, if the employee had been residing in permanent quarters, he may have made the trip anyway. * * *

Besides requesting our decision as to whether Mr. Nicks was entitled to TQSE allowance for the 4 days for which it denied it, the Air Force asks us, in the event that we agree with its denial of TQSE allowance for the period of November 23-26, if Mr. Nicks is entitled to receive TQSE allowance for the period of November 27, through December 8, since paragraph C13001-3a of Volume II of the Joint Travel Regulations provides that "The eligibility time [for TQSE allowance] will run on a consecutive calendar day basis."

Paragraph C13000 of Volume II of the Joint Travel Regulations provides in pertinent part:

"* * * Temporary quarters refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee and/or his dependents who have vacated the residence quarters in which they were residing at the time the transfer was authorized. Temporary quarters must, in fact, be a temporary place of residence.

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* * * Quarters occupied temporarily within the allowable time limit may be considered temporary quarters when their need is due to the fact that the permanent quarters for which the employee has made arrangements:

- "1. have not been vacated by the present tenant,
- "2. require repairs or alterations which have not been completed,
- "3. are under construction."

The sentence in paragraph C13000 cited by the Air Force as its basis for denying Mr. Nicks TQSE allowance for the period of November 23, through 26, 1977, does not require that the temporary quarters in which an employee and his dependents reside, be in the vicinity of either the employee's present or former permanent duty station. Our decisions have authorized payment of TQSE allowance in a number of cases in which the employee occupied temporary quarters at places other than either his present or former permanent duty station. B-189489, June 7, 1978; B-185514, September 2, 1976; B-178790, August 1, 1973; B-175594, May 31, 1972. Accordingly, since the quarters in which Mr. Nicks and his dependents stayed during the period in question appear to constitute temporary quarters under paragraph C13000 and the other paragraphs of the Joint Travel Regulations dealing with temporary quarters, Mr. Nicks is entitled to TQSE allowance if otherwise proper for the period of November 23, through 26, 1977.

Since Mr. Nicks is entitled to TQSE allowance for the period of November 23, through 26, 1977, it is not necessary to answer the Air Force's second question.


Acting Comptroller General
of the United States