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DECISION

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

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FILE: B-192953 DATE: December 20, 1979

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MATTER OF: Donald K. Watson, [Remote Duty Station Allowance]

DIGEST: Remote worksite allowance is payable under 5 U.S.C. § 5942 (1976) for dates employee commutes round-trip from his residence to remote permanent duty station or where he remains at the worksite at the direction of management because commuting is impractical. Thus, employee who rented trailer and remained at remote worksite for his own convenience is not eligible for remote worksite allowance. Neither may he be paid a per diem allowance, even though he contends he was improperly transferred to the remote duty station.

By letter of August 11, 1978, Mr. Donald K. Watson requested reconsideration of our Claims Division Settlement Certificate denying his claim for an additional payment for remote worksite allowance. For the following reasons, we deny Mr. Watson's claim.

Mr. Watson was hired by the Department of the Air Force as a photographer in October 1967, and his permanent duty station was Hill Air Force Base, Utah. The Air Force assigned Mr. Watson to perform temporary duty (TDY) at Hill Air Force Range beginning on December 19, 1967. Mr. Watson continued to perform TDY at Hill Air Force Range until October 12, 1969, at which time the Air Force changed his permanent duty station to Hill Air Force Range. Mr. Watson rented a trailer at Hill Air Force Range and after October 12, 1969, the Air Force determined that Mr. Watson was no longer entitled to TDY allowances since he was working at his permanent duty station. In 1975 the Civil Service Commission advised the Air Force that Hill Air Force Range met the criteria for a remote worksite allowance under 5 U.S.C. § 5942. The Air Force then determined that Mr. Watson was entitled to a remote worksite allowance of $5.70 per day for each day he commuted from his residence to Hill Air Force Range, retroactively effective to January 8, 1971. Mr. Watson received $1,310.25 as a remote worksite allowance. In addition to this amount he believes that he is entitled to reimbursement for expenses which are normally associated with a temporary duty assignment, including gas, breakfast, lunch, dinner, lodging and housekeeping expenses incurred while working at Hill Air Force Range after he was permanently assigned there.

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Mr. Watson's claim was denied by our Claims Division on the basis that he was not entitled to TDY allowances while he was working at his permanent duty station. Our Claims Division also pointed out that the remote worksite allowance applies only to days in which the employee actually commutes to work or where the employee is required to remain at his duty post for the workweek as a regular condition of employment. Since Mr. Watson had been paid the proper allowance for those days on which he commuted to his duty station and because he was not required to remain overnight at the remote post of duty, our Claims Division found that he did not qualify for any additional remote worksite allowance. In his appeal, Mr. Watson states that our Claims Division improperly failed to consider his contention that his transfer to Hill Air Force Range was illegally effected in violation of Air Force Regulation 40-351. Specifically, Mr. Watson believes that the Air Force's characterization of his change in permanent duty station as part of a transfer of function was improper in that less than the entire photographic function to which he had been assigned at Hill Air Force Base was transferred to Hill Air Force Range.

Employees of the Government are not entitled to per diem or subsistence expenses while at their permanent duty stations. See Federal Travel Regulation (FTR) para. 1-7.6a (FPMR 101-7) (May 1973). Since Mr. Watson was permanently assigned to Hill Air Force Range beginning October 12, 1969, he was no longer entitled to per diem after that date because he was working at his official station and not on TDY. Mr. Watson's contention that he was improperly transferred to Hill Air Force Range has no bearing on his entitlement to per diem. Under 5 C.F.R. § 351.901 (1969) he had a right, which he apparently chose not to pursue, to promptly appeal the Air Force's determination to transfer him incident to a transfer of function. Even in the case where an employee obtained a determination by the Civil Service Commission's Appeals Review Board that her transfer to Madera, California, was improperly based on race and sex discrimation, we held that the corrective action taken by her agency to nullify the transfer did not have the effect of changing her duty status from permanent duty to temporary duty so as to entitle her to per diem expenses while at Madera. Marie R. Streeter, B-191056, June 5, 1978.

Mr. Watson's entitlement to receive a remote worksite allowance is based on 5 U.S.C. § 5942 (1976). That section provides that an employee who is assigned to duty, except temporary duty, at a site so remote from the nearest established community or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in commuting, is entitled to an allowance when commuting between his residence and his worksite. The statute limits this allowance to $10 per day and provides that it is to be paid under regulations prescribed by the President establishing the rates of the allowance and defining and designating those sites, areas, and groups of positions to which the rates apply.

The regulations implementing 5 U.S.C. § 5942 are contained in Federal Personnel Manual (FPM) Supplement 990-2, Book 591 (1973), and 5 C.F.R. §§ 591.301 to 591.310 (1978). As specifically set forth at 5 C.F.R. § 591.306, these regulations provide that the allowance is earned on a daily basis and is payable only for those days on which an employee commutes to the remote post of duty or remains at the post of duty at the direction of management because daily commuting is impractical. As discussed in Linden Kelly, B-188436, March 15, 1978, subsection 591.306(c) specifically states that an employee who resides permanently or temporarily for his own convenience at a remote duty post is not eligible for the authorized allowance rate during his period of residence.

Mr. Watson claims that he was ordered to work at the Hill Air Force Range and, therefore, he was not there at his own convenience. While this may well be true, Mr. Watson nevertheless was entitled to live off the Range and commute to work, in which case he would have received a remote worksite allowance for each day that he reported for duty. Instead, the record indicates that he chose to live at Hill Air Force Range. Since he has submitted no evidence that he was ordered to remain at Hill Air Force Range, he is not entitled to a remote worksite allowance for those days on which he did not commute to work.

Accordingly, our Claims Division settlement is upheld.

For the Comptroller General
of the United States