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DECISION



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

10,701

FILE: B-193452

DATE: July 10, 1979

MATTER OF: Mona J. D. Noonan - Settlement of Unexpired Lease

DIGEST: Transferred employee who claims the equivalent of 2 months rent as a lease termination expense may not be reimbursed since she has not furnished a copy of her lease or other documentation showing her obligation under the lease in the event of her termination. Submission of cancelled checks does not satisfy documentation requirement of FTR paragraph 2-6.2h.

This decision is in response to an appeal by Ms. Mona J. D. Noonan from the Settlement Certificate issued by our Claims Division on September 26, 1978, denying her claim for reimbursement of expenses she incurred in settling an unexpired lease

Ms. Noonan was transferred from the Naval Air Engineering Center in Philadelphia, Pennsylvania, to the Naval Air Station, Lakehurst, New Jersey, and was directed to report to her new duty station on November 16, 1974. She was not informed of this transfer until October 1974 and thus was unable to give more than 1 month notice of the termination of the lease on her apartment at her old official station prior to the date of her transfer. She claims that her lease required 90 days notice at termination or, in lieu of such notice, payment of 3 months rent plus forfeiture of the security deposit of \$210. She states that in order to reduce the cost of terminating the lease she paid rent for December and January, thus complying with the 90 days notice requirement.

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Ms. Noonan was initially reimbursed for the 2 months rent, which amounted to \$370, but the Navy Regional Finance Center in Norfolk, Virginia, directed collection of that amount unless Ms. Noonan could furnish a copy of the lease to substantiate payment. Ms. Noonan states that in April 1972 she signed two copies of her lease and returned them by mail to the Multihome Corporation which managed her apartment building. She has been unable, however, to obtain a copy of the lease. In substantiation of her claim for lease termination expenses, she has submitted copies of two cancelled checks payable to the Multihome Corporation in the amounts of \$155 each for the December and January rent on her old residence together with a deposit and a rent check for January on her new residence in New Jersey.

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Our Claims Division upheld the determination of the Navy Regional Finance Center stating:

"Paragraph 2-6.2h of the Federal Travel Regulations does not allow reimbursement for these expenses when they are not properly documented. As these regulations have the force and effect of law, we may not modify or waive them. Accordingly, based on Comptroller General Decision B-184164 (copy enclosed), we may not allow your claim."

Paragraph 2-6.2h of the FTR provides for payment of lease termination expenses as follows:

"h. Settlement of an unexpired lease. Expenses incurred for settling an unexpired lease (including month-to-month rental) on residence quarters occupied by the employee at the old official station may include broker's fees for obtaining a sublease or charges for advertising an unexpired lease. Such expenses are reimbursable when (1) applicable laws or the terms of the lease provide for payment of settlement expenses, (2) such expenses cannot be avoided by sublease or other arrangement, (3) the employee has not contributed to the expense by failing to give appropriate lease termination notice promptly after he has definite knowledge of the transfer, and (4) the broker's fees or advertising charges are not in excess of those customarily charged for comparable services in that locality. Itemization of these expenses is required and the total amount shall be entered on an appropriate travel voucher. This voucher may be submitted separately or with a claim that is to be made for expenses incident to the purchase of a dwelling. Each item must be supported by documentation showing that the expense was in fact incurred and paid by the employee."

This regulation requires not only documentation showing the lease termination expense was in fact incurred and paid, but a showing that the employee was obligated by applicable law or the terms of his lease to incur the expense claimed. Thus, in B-184164,

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December 8, 1975, where a transferred employee forfeited a security deposit because he was unable to give the required notice, his claim for reimbursement was denied because he did not furnish a copy of his lease. Similarly, in B-174098, December 8, 1971, an employee who produced only a cancelled check as evidence of lease termination expenses, was denied reimbursement due to lack of corroborating excerpts from the lease or other evidence that the checks were in payment of expenses for which he was legally obligated.

The record indicates that Ms. Noonan has been unable to obtain a copy of her lease notwithstanding considerable effort on her part. Under the circumstances, Ms. Noonan's claim may be considered by the Department of the Navy if she will furnish a copy of the standard lease used by Multihome Corporation for the apartment building she occupied together with that corporation's certification that she had such a lease. Based on the present record, however, settlement by our Claims Division disallowing Ms. Noonan's claim is sustained.

R. P. K. Hu.
Deputy Comptroller General
of the United States