

DECISION



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

FILE: B-197621, B-197622

DATE: February 26, 1981

MATTER OF: Micheline Motter and Linn Huskey - [Claim
for actual subsistence allowance]

DIGEST: Employees were authorized actual subsistence expense for temporary duty assignments in Los Angeles, California. Employees lodged together in order to reduce their lodging costs, but they submitted claims for reimbursement of meal costs in excess of amount the agency determined to be reasonable for meals. Employees are entitled to reimbursement only for reasonable expenses for meals since travelers are required to act prudently in incurring expenses. Here, employees have not met burden of proving that agency action is clearly erroneous, arbitrary or capricious.

This action is in response to the appeals filed by Ms. Micheline Motter and Ms. Linn Huskey of the Claims Division settlements disallowing payment of their claims for actual subsistence expenses incurred while on temporary duty. Since travelers may not receive reimbursement for meals in excess of a reasonable amount, both claims are denied.

During the period of August 8, through September 2, 1977, Ms. Motter and Ms. Huskey, employees of the Internal Revenue Service (IRS), were temporarily assigned from their post of duty in San Diego, California, to a training program in Los Angeles. Ms. Motter and Ms. Huskey lodged together, thus reducing their expense for lodging to only \$15 each per night. Ms. Motter's expenses for meals totaled \$542.24 and Ms. Huskey's totaled \$552.44. [The cost of their meals combined with the lodging expenses were near the maximum daily allowance of \$40 for reimbursement of actual subsistence expenses authorized for temporary duty in Los Angeles.] See Federal Travel Regulations (FPMR) (Temp. Reg. A-11, Supp. 4) par. 1-8.6 (April 29, 1977.)

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[The agency, however, determined that the amount claimed by Ms. Motter and Ms. Huskey for meals did not meet General Accounting Office and General Services Administration requirements for prudence and reasonableness. Consequently, IRS reduced the amount allowable for meals for Ms. Motter by \$66.99 and provided her with a partial reimbursement of \$475.25 while Ms. Huskey's claim was reduced by \$94.05 and she received a partial reimbursement of \$458.39. Both women filed grievances with the agency as to the partial reimbursement, but the subject matter was found not to be grievable.]

[The employees now argue that they never exceeded the maximum daily allowance and they state that they ate the same while on temporary duty as they normally did when dining out at home. They conclude that the IRS policy of limiting meal expenses to the cost of lodgings is arbitrary or capricious, as applied to this case, since they reduced their cost of lodgings by rooming together.]

[An employee is entitled to reimbursement for only reasonable expenses for meals since travelers are required to act prudently in incurring expenses.] Charles J. Frisch, B-186740, March 15, 1977; Norma J. Kephart, B-186078, October 12, 1976. The basis for this principle is FTR para. 1-1.3a (May 1973), which provides:

"An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business."

[It is the responsibility of the employing agency to determine the reasonableness of the expenses claimed, and in the absence of evidence that the agency's determination was clearly erroneous, arbitrary or capricious, we will not question the agency's action.] Frisch, supra.

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The IRS determined that the expenses claimed were not reasonable. The agency felt that meal costs in the Los Angeles area should not exceed \$18.28 daily and reduced each claim accordingly. This determination was based on the IRS Western Region policy of not allowing meal expenses in excess of lodging expenses. The IRS reports that this policy is derived from FTR para. 1-8.1b (May 1973), which notes that hotel accommodations will normally constitute the major part of necessary subsistence expenses.

Although the standard of not allowing meal expenses in excess of lodging expenses may not have a reasonable basis in instances where an employee saves lodging expenses by lodging with another person, the IRS did not abide by its declared policy in this case since they have allowed meal costs in excess of the lodging expenses claimed. The agency instead determined that meal costs in the Los Angeles area were not to exceed \$18.28 a day. We have been informally advised that this rate was arrived at by extrapolating the relationship, expressed as a percent, of the amount allowed for meals under the lodgings plus method to the \$40 actual subsistence rate. The resulting \$18.28 rate was applied only where the agency determined that an amount claimed for meals on a particular day was clearly excessive.

We stated in Kephart, that reimbursement for actual subsistence expenses was not intended to allow an employee who realizes a savings in one area of subsistence (e.g., lodgings) to claim the maximum reimbursable amount or nearly that amount, with extravagant expenditures for meals. Thus, we believe that a limitation on the reimbursement of meals of \$18.28 of a maximum authorized rate of \$40 is not clearly erroneous, arbitrary or capricious, even though Ms. Motter and Ms. Huskey never exceeded the

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maximum daily subsistence allowance and they state that they ate the same in Los Angeles as they did when dining out at home. See Frisch, supra, and Kephart, supra. Accordingly, since they have not met their burden of proving the agency's determination to be erroneous, arbitrary or capricious, Ms. Motter's and Ms. Huskey's claims for full reimbursement of their actual subsistence claims are denied.

Milton J. Aroian

For the Comptroller General
of the United States