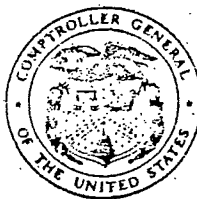


**DECISION**



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

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**FILE:** B-199728

**DATE:** May 8, 1981

**MATTER OF:** Special Agent [REDACTED], OSI, USAF

**DIGEST:** Military member, who is an OSI Special Agent, ordinarily would have been entitled to live off base and receive basic allowance for quarters (BAQ), <sup>but</sup> did not do so because he was assigned Government quarters incident to his duties as an OSI Special Agent performing an investigation. In this case, although he was assigned Government quarters pursuant to his duties as an undercover investigator and not because of his basic military status, he is denied BAQ as he incurred no expense for privately financed housing during the time he occupied Government quarters.

This action is in response to a request for an advance decision from the Chief, Accounting and Finance, Headquarters 63d Military Airlift Wing (MAC), Norton Air Force Base, California, concerning the propriety of payment of basic allowance for quarters (BAQ) to [REDACTED], an enlisted member serving as a Special Agent, Air Force Office of Special Investigations (OSI). This request for a decision was approved by the Department of Defense Military Pay and Allowance Committee as Air Force submission number DO-AF-1350.

The question presented is as follows:

"\* \* \* [W]hether or not a military member without dependents is entitled to BAQ at the without dependents rate while occupying Air Force bachelor housing incident to his duties as an OSI special agent."

Special Agent [REDACTED] arrived at Norton Air Force Base on October 12, 1979, on permanent change of assignment orders. In accord with the standard military procedure of not quartering OSI Special Agents with other military personnel, Special Agent [REDACTED] would have been given permission to live off base. However, he did not procure off base housing, as immediately upon his arrival at Norton, he was assigned to participate in an OSI undercover investigation. To carry out his duties, he was given the identity of "Senior Airman" and he was assigned single Government quarters. He occupied these quarters in his capacity as

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an undercover investigator from October 12, 1979, to January 10, 1980.

Special Agent [redacted] is now seeking BAQ for this period. The Staff Judge Advocate's Office of the 63d Air Base Group, argues that Special Agent [redacted] did not use these Government quarters for normal residential purposes, but rather that he only occupied these quarters to fulfill his investigatory duties, and should therefore, be entitled to BAQ. However, the Accounting and Finance Officer expresses doubt since under Rule 1, Table 3-2-3, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM), payment of BAQ is precluded if the member is assigned or occupies suitable Government quarters.

The statutory authority for the payment of BAQ is 37 U.S.C. 403, subsection (a), of which provides that except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to BAQ. However, subsection (b) provides generally that, except as otherwise provided by law, a member who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service is not entitled to BAQ.

There are exceptions to this general rule. Military personnel who are ordered to temporary duty assignments and who are furnished Government quarters at their temporary duty stations, but are receiving BAQ at their permanent duty station and that station remains unchanged, are entitled to BAQ during their temporary duty. Rule 14, Table 3-2-3, DODPM. Also, members are entitled to BAQ during a period of hospitalization if they are receiving BAQ at their permanent duty stations and such stations remain unchanged. Rule 12, Table 3-2-3, DODPM. [redacted] v. United States, 123 Ct. Cl. 141, 149 (1952).

These two exceptions are based on the same rationale. If members were entitled to BAQ at their permanent stations, they may continue to receive BAQ during their period of temporary duty or hospitalization because of the necessity for them to maintain their privately financed quarters during their absence from their permanent duty stations. Members assigned to Government quarters for a short period

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solely to perform undercover investigatory work, may be in a similar situation. In such a case they would not be precluded from receiving BAQ if they otherwise are entitled to receive it on the basis that they were not assigned Government quarters and are maintaining private quarters at their permanent stations.

In this case, however, although Special Agent [redacted] occupied Government quarters primarily for investigatory purposes, and although he may have been authorized to procure off base housing, he is not entitled to BAQ during the period of his assignment to Government quarters. A quarters allowance is intended to reimburse a member for money expended only when he is not furnished quarters and he provides his own housing--it is not intended to confer a gratuity. [redacted] v. United States, 93 Ct. Cl. 145 (1941), [redacted] v. United States, 87 Ct. Cl. 241 (1933); E-144639, June 21, 1967. While Special Agent [redacted] was occupying the Government quarters from October 12, 1979, to January 10, 1980, he did not procure private housing and, therefore, did not incur any expense for housing purposes during this time.

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Accordingly, Special Agent [redacted] claim for BAQ for that period may not be paid.

Milton J. Jorlow

Acting Comptroller General  
of the United States