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DECISION

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

FILE: B-199985

DATE: March 11, 1981

MATTER OF: Darrell W. Fletcher - *Claim for* Per Diem and Temporary
Quarters Expenses

DIGEST: Employee, who occupies temporary quarters at old duty station and interrupts occupancy for permanent change of station as permitted by FTR para. 2-5.2a, may elect not to count the day of departure against his 30-day limit for temporary quarters. The principles established in 57 Comp. Gen. 696 (1978), and 57 Comp. Gen. 700 (1978) are applicable regardless of whether the employee interrupts his occupancy of temporary quarters for purposes of temporary duty or change of station travel.

By letter of June 27, 1980, LTC A.T. Holder, a Finance and Accounting Officer at Redstone Arsenal, Alabama, requested an advance decision regarding the computation of per diem and temporary quarters subsistence expenses for Mr. Darrell W. Fletcher in connection with a permanent change of duty station from the Federal Republic of Germany to Redstone Arsenal, Alabama. This request was forwarded through the Per Diem, Travel and Transportation Allowance Committee and assigned Control No. 80-28.

The record shows that Mr. Fletcher began occupying temporary quarters at his old duty station in Germany on January 11, 1980. He flew to New York on January 17, 1980, having departed from his temporary quarters in Germany at 8:10 a.m. that day. The employee picked up his privately owned vehicle at the Ocean Terminal in Bayonne, New Jersey, on January 17 and drove to Alabama where he and his dependents resumed occupancy of temporary quarters. The specific question presented by the Finance and Accounting Officer is whether January 17 should be counted against Mr. Fletcher's 30-day limit for temporary quarters subsistence expenses, since he was in temporary quarters until 8:10 a.m. on that day. In addition, he inquires whether Mr. Fletcher is entitled to per diem for three-fourths or a full day on January 17 in the event January 17 is not charged against his temporary quarters authorization. For the reasons stated below we find that January 17, the day Mr. Fletcher departed Germany, need not be counted against his 30-day limit, and we find that he is entitled to receive per diem for three-fourths of the day of January 17.

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Under paragraph 2-5.2a of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) the period of 30 days for temporary quarters occupancy runs consecutively except that "the period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations or for circumstances attributable to official necessity, as for example, an intervening temporary duty assignment." While we have held that an employee who interrupts his occupancy of temporary quarters to perform temporary duty (TDY) may choose not to count the days of departure and return against the 30-day period of eligibility, we have not specifically addressed this issue in the case where an employee interrupts his occupancy of temporary quarters to perform permanent change of station travel. We believe, however, that the same rule should apply.

Our decision involving interruptions of temporary quarters occupancy for temporary duty travel, 57 Comp. Gen. 696 (1978) and 57 id. 700 (1978), were predicated on the following language of FTR para. 2-5.2g:

"g. Effect of partial days. In determining the eligibility period for temporary quarters, subsistence expense reimbursement and in computing maximum reimbursement when occupancy of such quarters for reimbursement purposes occurs in the same day that en route travel per diem terminates, the period shall be computed beginning with the calendar day quarter after the last calendar day quarter for which travel per diem described in 2-2.1 and 2-2.2 is paid, except that when travel is 24 hours or less the period shall begin with the calendar day quarter during which travel per diem terminates. In all other cases, the period shall be computed from the beginning of the calendar day quarter for which temporary quarters subsistence reimbursement is claimed, provided that temporary quarters are occupied in that calendar day. The temporary quarters period shall be continued for the day during which occupancy of permanent quarters begins."

In 57 Comp. Gen. 696, supra, we stated that since an employee's return travel from temporary duty is not considered to be "en route" travel, the second sentence of the quoted regulation should be applied and the period for computing temporary quarters would resume "either the day the employee returns from temporary duty or the following calendar day, depending upon when the employee claimed reimbursement for temporary

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quarters." We make it clear in 57 Comp. Gen. 700, supra, that this election to claim or not claim temporary quarters subsistence expenses extends to the day of departure for temporary duty as well as to the day of return and has the practical effect of permitting an employee to extend his occupancy of temporary quarters for up to 2 days.

If we were to strictly apply the language of FTR para. 2-5.2g to interruptions of temporary quarters occupancy for "en route" or permanent change of station travel, we would be obliged to apply the first sentence of that regulation to at least the day en route travel is completed. In accordance with 56 Comp. Gen. 15 (1976) and 57 id. 6 (1977) we would be required to conclude that an employee whose en route travel terminates during the third quarter of a day must count that day as one of the 30 days for which he may be reimbursed temporary quarters subsistence expenses. This conclusion is not compelling, however, because FTR para. 2-5.2g is not necessarily intended to be applied to cases in which temporary quarters occupancy is interrupted for permanent change of station travel. As we stated in 56 Comp. Gen. 15, supra:

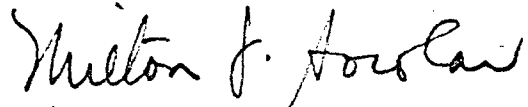
"The quoted provision was added by section 2.5(b)(6) of Bureau of the Budget Circular No. A-56 on June 26, 1969. By transmittal memorandum No. 5 of the same date, the revision was explained as 'clarifying the allowances payable for the first and last day of use of temporary quarters.' The first two sentences of the regulations, then, clarify the commencement of the eligibility period; the last sentence clarifies its cessation."

Because we do not believe the regulations require us to reach a conclusion in this case that is inconsistent with our holdings in 57 Comp. Gen. 696, and 57 id. 700, we hold that the principles set forth in those decisions are to be applied regardless of whether the employee's occupancy of temporary quarters is interrupted for purposes of temporary duty or change of station travel.

Accordingly, Mr. Fletcher may elect not to count the day he departed Germany, January 17, 1980, in calculating his temporary quarters allowance.

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Regardless of whether Mr. Fletcher elects to count January 17 in calculating his temporary quarters allowance he is entitled to per diem for three-fourths of that day having entered a travel status at 8:10 a.m., i.e., during the second quarter of the day. 56 Comp. Gen. 15, supra. While Mr. Fletcher points out that he was in a travel status for more than three-fourths of a day (or 18 hours) based on his actual elapsed traveltime, FTR para. 1-7.6c requires per diem calculations to be made on the basis of "the standard time then currently in effect at the place involved," except when the traveler crosses the international dateline.



Acting Comptroller General
of the United States