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P.M. 2*



DECISION

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

17155

[Claim for Expenses Incurred in]

FILE: B-200037

DATE: March 2, 1981

MATTER OF: Harry Fenwick - Settlement of
Unexpired Lease]

DIGEST: Where employee was prevented from giving required 1 month's notice pursuant to oral lease for termination of occupancy of apartment at old duty station because agency notice to transfer required him to leave in less than 1 month, employee may be reimbursed amount paid to lessor in lieu of notice, since State law recognizes verbal leases.

This action is in response to a request dated August 13, 1980, for an advance decision by Patricia Fritz, Certifying Officer, Internal Revenue Service, as to the propriety of certifying for payment a voucher for \$285 for expenses incurred by Harry Fenwick in settling an unexpired lease at the time of his transfer of permanent duty station.

The record shows that Mr. Fenwick was notified of his transfer from Baltimore, Maryland, to Frederick, Maryland, late in January 1980. He reported to his new post of duty on February 4, 1980. Mr. Fenwick submitted a voucher for reimbursement of \$285, representing payment for February rent on his apartment at his old duty station. The voucher was returned unpaid as Mr. Fenwick had not submitted a copy of his lease and information indicating he gave prompt termination notice to his landlord.

Mr. Fenwick resubmitted his voucher stating that he was subletting his apartment and merely had an oral agreement with the original tenant. Mr. Fenwick and the lessor each state that they agreed Mr. Fenwick would give the lessor at least 1 month's notice prior to vacating the apartment. Since Mr. Fenwick was unable to provide 1 month's notice he paid the next month's rent in lieu of notice.

Paragraph 2-6.2h of the Federal Travel Regulations (FTR) provides for reimbursement of expenses incurred for settling an unexpired lease at an employee's old station incident to a change of duty station. This

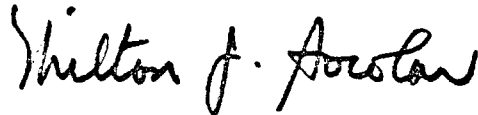
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regulation requires documentation showing that the lease termination expense was incurred and showing that the employee was obligated by applicable law or the terms of the lease to incur the expense claimed. See B-195452, July 10, 1979.

It appears that oral leases are recognized in certain circumstances under Maryland law. See the Annotated Code of Maryland, Real Property Section 8-401 (1974). Therefore, a written lease need not be provided to evidence their agreement. Mr. Fenwick and his lessor have both stated that their agreement provided for 1 month's notice prior to termination, and that Mr. Fenwick gave termination notice immediately upon receiving notice of his transfer. Further, the record contains a signed statement from the lessor that Mr. Fenwick honored the agreement by paying the rent for February in lieu of providing 1 month's notice, and there is a copy of Mr. Fenwick's cancelled check in the record. Thus, the conditions in the regulation appear to have been met. See, e.g., B-189808, April 28, 1978.

Accordingly, the voucher in the amount of \$285 representing settlement of an unexpired lease may be certified for payment.



For the Comptroller General
of the United States