

DECISION

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

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FILE: B-202319

DATE: May 4, 1981

MATTER OF: Captain [REDACTED], United States Army

DIGEST: Member ordered to active duty and assigned to Fort Eustis upon completion of "temporary duty" at Fort Eustis, is not entitled to per diem allowance in connection with his initial temporary duty there since Fort Eustis was designated as his permanent station. That conclusion is not altered by the fact that the member was issued orders reassigning him to another permanent station prior to the completion of his initial period of duty at Fort Eustis.

This is in response to a letter from Captain [REDACTED], United States Army, appealing the disallowance by the Claims Group of this Office of his claim for per diem expenses in connection with a duty assignment he performed at Fort Eustis, Virginia, from July 27 to September 29, 1972. For the reasons set forth below, the claim is disallowed.

By Letter Orders A-06-300 dated June 26, 1972, issued by Headquarters, Fifth United States Army, Fort Sam Houston, Texas, the member was ordered to 3 years active duty and assigned to the U.S. Army Transportation School, Fort Eustis, Virginia, with a reporting date of October 14, 1972. Additionally, in the same orders he was ordered to perform 9 weeks temporary duty (TDY) en route at Fort Eustis for the purpose of attending Transportation Officer Basic Course 2-73 with a reporting date of July 27, 1972.

While attending the Transportation Officer Basic Course at Fort Eustis, the member received Special Orders No. 186, dated September 19, 1972, issued by the U.S. Army Transportation Center and Fort Eustis, ordering a permanent change-of-station assignment (PCS) from Fort Eustis to the United States Army Aviation School, Fort Rucker, Alabama, with a reporting date of February 27, 1973. Special instructions contained in the order stated:

"(b) Officers presently TDY, Student Officer Company, USATSCH, Ft Eustis VA 23604 attending TOBC Class 2-73, 27 Jul

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72 closing 29 Sep 72. Upon completion of present course of instructions, individuals are placed on further TDY at Ft Wolther's Tx 76067 for the purpose of attending ORWAC Class 73-18 starting 22 Oct 72 closing 23 Feb 72. * * *

On February 5, 1979, Captain [redacted] submitted a claim in the amount of \$1,170 to the U.S. Army Finance and Accounting Center for per diem for the 65-day TDY period (July 27 to September 29, 1972) he was attending the course instruction at Fort Eustis. The claim was forwarded to our Office and subsequently disallowed by our Claims Group by settlements dated October 24, 1979, and June 13, 1980.

Captain [redacted] seeks reconsideration on the basis that he was in TDY status while at Fort Eustis and never was in a permanent "PCS" status there. He relies on Comptroller General decision B-184466, July 27, 1976.

Section 404 of title 37, United States Code (1970), provides for payment of travel and transportation allowance when a member of a uniformed service is away from his permanent station. Paragraph M3050-1 of the JTR, promulgated under that authority provides that members are entitled to travel and transportation allowances only while actually in a "travel status" and that they shall be deemed to be in a travel status while performing travel away from their permanent duty station, upon public business, pursuant to competent travel orders.

The term "temporary duty" is defined in 1 JTR, M3003-2a as duty at one or more locations, other than the permanent station, at which a member performs temporary duty under orders which provide for further assignment, or pending further assignment, to a new permanent station or for return to the old permanent station upon completion of the temporary duty.

It consistently has been held that when a member is directed to report for permanent duty at a station following completion of temporary duty which he is performing at the same place, the station to which he was ordered becomes his designated post of duty and, in

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effect, his permanent station upon receipt of such orders. Therefore, no right to per diem accrues during the period he performed "temporary duty" from the time of receipt of the orders, because he was no longer traveling away from his designated post of duty within the meaning of section 404(a) of title 37, United States Code. See B-180013, October 2, 1974, and 34 Comp. Gen. 427 (1955).

Since the orders of June 26, 1972, directed Captain [redacted] to report for duty at Fort Eustis, following a period of "temporary duty" at that place, Fort Eustis was his designated post of duty, and in effect, his permanent station from the time he arrived there. Subsequent orders reassigning the member to another permanent station prior to completion of his period of duty at Fort Eustis could not serve to terminate or change the nature of his permanent duty prior to departure from Fort Eustis. No right to per diem accrued to the member during the period he performed "temporary duty" at Fort Eustis because he was not traveling away from his designated post of duty, within the meaning of 37 U.S.C. 404(a) and hence was not in a travel status during such duty.

Since the member was regarded as present at his permanent station at Fort Eustis during the period from July 27 to September 29, 1972, he was not entitled to temporary allowances, including per diem, in connection with his duty at that location.

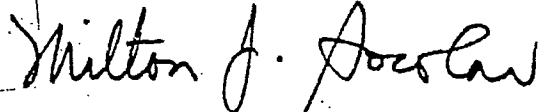
Decision B-184466, July 27, 1976, is distinguishable from the present case. In that case the member received orders assigning him to TDY at Fort Eustis, en route to his permanent station at Fort Hood. Subsequent orders issued prior to the completion of the TDY at Fort Eustis, purportedly changed his permanent station to Fort Eustis. However, examination of the orders showed that another TDY assignment was contemplated and that he would be assigned permanently at a later date. As a result his permanent station remained Fort Hood for the entire period of duty at Fort Eustis.

In Captain [redacted]'s case Fort Eustis was his permanent station from the time he was ordered to active duty and remained his permanent station until he actually transferred

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pursuant to the orders of September 19, 1972. Thus, he is not entitled to temporary duty allowances claimed since the duty was performed at his permanent station.

Accordingly, the settlement of the Claims Group is sustained and the claim is denied.



Acting Comptroller General
of the United States