

## DECISION



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

FILE: 8-204630

DATE: JUL 7 1982

MATTER OF: Daniel Riddick

**DIGEST:** Employee claims per diem and relocation expenses incurred while he was purportedly on detail at the duty station to which he was officially transferred at the end of that assignment. Since an administrative intent to transfer the employee permanently to that duty station was clearly evident at the time he began the temporary assignment, he is considered to have transferred when he initially reported for duty there. He is entitled to relocation expenses, including temporary quarters and subsistence expenses for the 30-day period he resided in temporary quarters. He is not entitled to per diem.

This action is in response to the request of the Director of the Finance Division, General Services Administration, Philadelphia, Pennsylvania, for an advance decision on the entitlement of Mr. Daniel Riddick, an employee of the Federal Protective Service, to travel and relocation expenses arising from his transfer to Richmond, Virginia.

In September 1980 while Mr. Riddick was permanently assigned to the Philadelphia District Office, Mr. Gerold Osgood, then the Director of the Federal Protective Service at that location, asked Mr. Riddick whether he would be willing to transfer to Richmond, Virginia, to set up a sub-district office with the possibility of a promotion. When Mr. Riddick explained that he could accept the transfer if his wife (also a Federal employee) could be transferred to Richmond, reportedly Mr. Osgood agreed to assist in securing Mrs. Riddick's transfer by contacting the agency for which she worked. Mr. Riddick also requested that he be detailed to Richmond so that he could locate permanent quarters there for his family.

In response to the conditions upon which Mr. Riddick agreed to accept the transfer, Mr. Osgood authorized his travel to Richmond so that he could locate permanent

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housing. The travel order issued pursuant to this action authorized Mr. Riddick to serve a 60-day detail while locating a permanent residence. Mr. Riddick states that he received an advance payment for travel expenses to cover the initial period he was purportedly detailed to Richmond (October 6-December 6, 1980).

The record indicates that Mr. Riddick resided in a motel in Richmond from October 6 through November 5, 1980, and afterwards rented an apartment there. The record also indicates that between November 21 and November 27, 1980, he moved his family and household effects from Philadelphia to Richmond.

On December 3, 1980, a Request for Personnel Action was approved for Mr. Riddick's Richmond assignment (designated as a detail) that began on October 6. The December 3 action also authorized a 60-day extension of the "temporary" assignment beyond December 6. Apparently this action was taken because of some confusion in the agency as to whether Richmond would become a sub-office and whether Mr. Osgood had properly authorized Mr. Riddick's assignment there.

Subsequently, the confusion was resolved and on February 8, 1981, Mr. Riddick's reassignment to the Richmond District was formally authorized. Then in March 1981 a personnel action was issued, designating December 6, 1980, as the termination date of the original "temporary" assignment.

Thus, Mr. Riddick had remained in Richmond purportedly on detail from October 6, 1980, through February 2, 1981, pursuant to the authorizations issued on October 3 and on December 3, and was later informed of an action taken in March 1981, which supposedly terminated the detail in December 1980.

Mr. Riddick now claims per diem from December 6, 1980, through February 2, 1981, and relocation expenses for the transportation of his family and household effects which was accomplished in November 1980. The Director of the Finance Division inquires concerning the propriety of payment of travel expenses for the period of his service in Richmond beyond December 6, 1980, and

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relocation expenses incurred prior to permanent reassignment, in the absence of travel orders authorizing such payments.

While Mr. Riddick claims per diem in connection with what was designated as a detail, he asserts, and the agency does not deny, that in September 1980 Mr. Osgood asked him if he was willing to transfer to Richmond. In response to the conditions upon which he agreed to accept the transfer, Mr. Osgood took actions to facilitate the reassignment, which actions included the authorization of Mr. Riddick's travel to Richmond so that he could locate permanent housing. In view of these circumstances, we find that the statements made to Mr. Riddick by his supervisor concerning the transfer served to notify him of tentative selection for the Richmond position, and as such constituted a clear manifestation of administrative intent to transfer him. See Matter of Beasley, B-196208, February 28, 1980, and Matter of Fitzgerald, B-186764, March 3, 1977. The subsequent personnel actions extending his service in Richmond while efforts were continuing to finalize his transfer and the staffing at Richmond further support this finding.

We have held that moving expenses incurred prior to and in anticipation of a transfer of official duty station may be allowed if a subsequently issued travel order includes authorization of the expenses on the basis of an administrative intent to transfer the employee which existed and was clearly evident at the time the expenses were incurred. 53 Comp. Gen. 836 (1974), and Matter of Fitzgerald, cited above. The personnel action of February 8, 1981, by which Mr. Riddick was officially reassigned, indicated that payment of moving expenses was authorized subject to his agreement to remain in Government service for 12 months after his transfer, as provided by 5 U.S.C. § 5724(i). Thus, if he complied with this statutory requirement, under the circumstances of this case he is entitled to relocation expenses incurred in connection with his permanent change of station to Richmond, even though the record indicates he relocated there prior to the official date his assignment was made permanent.

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Concerning Mr. Riddick's claim for per diem, the record in this case reasonably supports the finding that, although his dependents apparently continued their residence in Philadelphia until November, he vacated his permanent residence there and traveled to Richmond to effect a permanent change of station in October. See Matter of Kelly, B-189998, March 22, 1978, and Matter of Menke, B-180748, October 3, 1974. As previously stated, he was authorized and received an advance payment for travel expenses, including per diem, for the first 60 days of his assignment to Richmond. However, since he traveled to Richmond in October with the knowledge that this was the place at which he would be expected to perform his duties on a permanent basis, he was not entitled to per diem. Rather, he was entitled to payment of a temporary quarters and subsistence expense allowance during the 30-day period he occupied temporary quarters at the motel in Richmond while locating a permanent residence. Federal Travel Regulations (FPMR 101-7) paragraph 2-5.2 (May 1973). See Matter of Brison, B-195922, July 8, 1980. If he received payments for lodging expenses in excess of 30 days' temporary quarters and subsistence expenses, that amount should be deducted from any relocation expenses to which he is entitled.

The vouchers received are being returned for payment in accordance with the above, if otherwise correct. We note that the truck rental agreement with which Mr. Riddick supports his claim for transportation of household goods is made out in the name of someone other than Mr. Riddick. That matter should be clarified by the Finance Director before payment is certified.

MILTON J. SOCOLAR

Acting Comptroller General  
of the United States