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**DECISION**



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

**FILE:** B-204709

**DATE:** March 23, 1982

**MATTER OF:** U.S. Immigration & Naturalization Service  
Employees Lodge #46 - Reimbursement of  
Actual Subsistence Expenses

**DIGEST:**

Employees were assigned to temporary duty in Kent and Ottawa counties in Michigan but lodged at Kalamazoo, Michigan, which is not in either of those two counties. Employees' travel orders authorized reimbursement for actual subsistence expenses, but their claims for such expenses were denied pursuant to FTR paragraph 1-8.1b, which prohibits reimbursement for such expenses when the high rate geographical area is only an en route stopover point at which no official duty is performed. The employees should be reimbursed for actual subsistence expenses since the record indicates that official duties were performed in Kalamazoo. Thus, Kalamazoo was not an intermediate stopover point as contemplated by the FTR. Also, FTR paragraph 1-8.1c(3)(d) permits reimbursement of actual subsistence expenses in situations similar to this.

This decision responds to a submission from the U.S. Immigration and Naturalization Service Employees Lodge #46, American Federation of Government Employees, concerning the claims of several of its union members for travel expenses incurred while on official business. This decision has been handled as a labor-relations matter under our procedures contained in 4 C.F.R. Part 22 (1981), as amended, in 45 Fed. Reg. 55689, August 21, 1980. The agency was served with a copy of the union's submission but has filed no written comments or response. 4 C.F.R. § 22.4 (1981).

The issue to be decided in this case is whether certain employees assigned to temporary duty in Kent and Ottawa counties in Michigan should be reimbursed for actual subsistence expenses instead of per diem while staying in Kalamazoo, Michigan, a high rate geographical area. We hold that, since the employees did perform official business in Kalamazoo, they may be reimbursed on the actual subsistence expenses basis.

Criminal Investigators of the Immigration and Naturalization Service (INS), Department of Justice, were issued travel orders (Form G-250) to perform travel from Detroit, Michigan, to Kent and Ottawa counties and any other location deemed necessary in order to conduct area control and anti-smuggling investigations. The employees were authorized to be reimbursed actual daily subsistence expenses not to exceed \$57. According to the record a group reservation was made in Kalamazoo and all employees were required to lodge at the same location for security of the detail and in order to more efficiently coordinate the personnel involved. Employees who had made alternate reservations in low rate areas were told to cancel their reservations.

The employees arrived in Kalamazoo, Michigan, which is not in Kent or Ottawa county, at 2 p.m. on May 11, 1981, and spent the night there. The next day they performed duty in Kent and Ottawa counties and returned to Kalamazoo for that evening. On May 13, 1981, they worked in Kent and Ottawa counties and then returned to Detroit that evening.

The employees submitted claims for reimbursement of actual subsistence expenses at approximately \$57 per day. After the employees submitted vouchers for reimbursement of travel expenses, the INS ruled that reimbursement was limited to \$50 per diem. This limitation was based on Federal Travel Regulation (FTR) paragraph 1-8.1b (FPMR 101-7, May 1973) which provides in part:

"b. Travel to high rate geographical areas. Actual subsistence expense reimbursement shall normally be authorized or approved whenever temporary duty travel is performed to or in a location designated as a high rate geographical area (see 1-8.6), except when the high rate geographical area is only an en route or intermediate stopover point at which no official duty is performed."


The agency position is that since no official duty was performed in Kalamazoo, the employees may not be reimbursed on an actual subsistence basis.

In rebuttal, the union contends that official duties were performed in Kalamazoo. It states that on May 11, 1981, all employees on the detail were required to attend a meeting in Kalamazoo at the direction of an INS Assistant District Director. A detailed presentation was given at that meeting concerning the next day's duties, and assignments were given to some employees. On May 12, 1981, the employees gathered in Kalamazoo and proceeded in groups to Holland, Michigan, for final instructions.

Agency officials do not deny that such meetings occurred, but, in their opinion, such meetings did not constitute official business. However, based on the circumstances of this case, it appears that the meetings, especially the meeting on May 11, 1981, were official business. The agency required all employees to lodge at the same place so that such meetings could take place. Detailed presentations were made concerning the employees' duties the next day and new assignments were made. In our opinion such meetings constitute official business. Thus, Kalamazoo was not an en route or intermediate stop-over point as contemplated by the FTR provision.

We also note that the Federal Travel Regulations permit reimbursement of actual subsistence expenses when it is determined that the maximum per diem allowance would be inadequate due to the unusual circumstances of the travel assignment. FTR paragraph 1-8.1c. One example of unusual circumstances contained in the FTR is when the employee must of necessity obtain lodging in the high rate geographical area (HRGA). FTR paragraph 1-8.1c(3)(d) (FPMR 101-7, Supp. 9, April 21, 1980). Therefore, since the employees were instructed to stay in the HRGA, and since the selection of the location was deemed necessary for accomplishment of the mission, the cited provision of the FTR allows reimbursement for actual subsistence expenses.

Accordingly, the employees' claims for reimbursement for actual subsistence expenses during their temporary duty assignment may be certified for payment.

for   
Comptroller General  
of the United States