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DECISION



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

FILE: B-205057

DATE: February 24, 1982

MATTER OF: Robert D. Hawks - Reimbursement for
Temporary Quarters Subsistence Expenses

DIGEST: Employee who moved household effects into permanent type quarters and resided with his dependents in those quarters during the period authorized for temporary subsistence is entitled to temporary quarters subsistence expenses since the record supports a determination that he intended to occupy the quarters only temporarily.

This action is in response to a request for an advance decision from the Chief of Accounting and Finance, Defense Logistics Agency (DLA) concerning a claim for temporary quarters subsistence expenses (TQSE) incurred by an employee who, with his dependents, resided in a rented apartment during the period of temporary residence authorized in connection with the employee's permanent change of station. Although the employee moved his household goods into permanent type quarters and continued to reside there beyond the period authorized for TQSE, his claim may be allowed since the record sufficiently establishes his intent to occupy those quarters only on a temporary basis.

The question in this case was forwarded by the Department of Defense Per Diem, Travel and Transportation Allowance Committee concerning the propriety of payment upon the claim of Mr. Robert D. Hawks, a civilian employee of the Defense Logistics Agency. He claims TQSE for himself and his two dependents in the amount of \$1,785.02, which covers the costs of apartment rent, meals, and laundry from April 1 through April 24, 1981. The matter has been assigned PDTATAC Control Number 81-29.

Incident to his permanent change of station from St. Louis, Missouri, to Columbus, Ohio, Mr. Hawks was authorized TQSE for 24 days and received an advance payment on that allowance. Upon arrival at the new duty station, Mr. Hawks moved his dependents and his household goods into a rented apartment. He states that he intended to reside in the apartment only until he found

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a suitable residence he could purchase, and that he does not, nor did he ever, intend to reside in the apartment indefinitely.

Mr. Hawks explains that, in consideration of the current instability of the housing and finance market, he chose to move his household goods into an apartment to minimize the expense of temporary quarters and storage to the Government, as well as to himself in the event that the time required to locate a suitable residence exceeded the statutory time limit for these allowances. However, he did not sign a lease for the apartment, but entered into a verbal agreement by which he would occupy the apartment temporarily, with the understanding that he would vacate the premises immediately upon obtaining permanent housing. The employee further explains that although he has been actively seeking a permanent residence, having visited an estimated 11 houses per week since he first reported to the new station, he has been unable to locate suitable housing due to untenable sales and financing arrangements which characterize the housing market in the Columbus area.

The accounting officer has requested guidance in this case because of the likelihood of increasing numbers of similar claims, the circumstances of which are, as here, precipitated by continuing high interest rates and financing difficulties in the housing market.

General authority for payment of temporary quarters subsistence expenses is contained in 5 U.S.C. § 5724a (1970), and the implementing regulations, Volume 2, Joint Travel Regulations (JTR), chapter 13. Among the conditions of eligibility for the allowance prescribed in 2 JTR, paragraph C13001, is the following:

"The temporary quarters for which a temporary quarters subsistence expense allowance is authorized or approved must, in fact, be a temporary place of residence. Quarters occupied upon initial arrival at a new duty station location which factually are permanent type residence quarters into which an employee moves his/her household goods and

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continues occupancy indefinitely will not be considered temporary quarters for which expense reimbursement is allowable. * * *

The issue in this case is whether the apartment which the employee and his dependents occupied upon their arrival at his new duty station constituted temporary quarters, for the occupancy of which he may be paid TQSE.

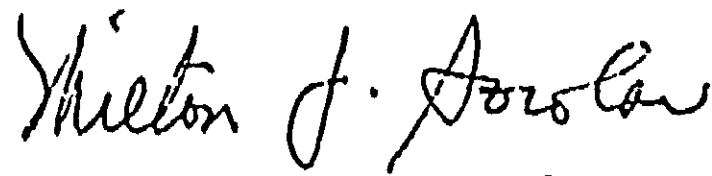
We have consistently held that what constitutes temporary quarters is not susceptible of any precise definition and, therefore, that determination must be based upon the facts in each case. Harrison J. Lane, B-183829, January 2, 1976; Robert L. Donelson, B-183239, June 25, 1975. When an employee, in connection with a permanent change of station, assumes as a temporary residence permanent type quarters, but ultimately occupies those quarters indefinitely, the determination of whether those quarters were initially temporary or permanent is based upon the intent of the employee at the time he moved into those quarters. See Hubert Mitchell, B-192343, November 15, 1978, and cases cited therein. In determining whether the intent of the employee was to occupy the quarters on a permanent or temporary basis, we have considered such factors as the type of quarters, the duration of a lease, movement of household effects into the quarters, efforts to secure a permanent residence, expressions of intent, and any other pertinent facts and circumstances surrounding the occupancy. If on the basis of these considerations it is objectively determined that at the time the employee moved into the residence, he clearly manifested the intent to occupy the quarters only on a temporary basis, we have allowed payment of TQSE even though the quarters could be occupied permanently or did, in fact, become permanent. See Harrison J. Lane, supra, and cases cited therein. In the absence of a finding of the requisite intent, the fact that occupancy of permanent type quarters results in savings to the Government may not serve as a basis for payment of TQSE. Richard E. Hoffman, B-197958, March 31, 1980, and Jack Carson, B-191626, November 20, 1978, and cases cited therein.

In this case, DLA has made a determination that at the time of initial occupancy and throughout the period

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for which TQSE are claimed the employee manifested the intent to occupy the apartment on a temporary basis only. We believe the record supports this finding. Although an apartment is considered a permanent type residence and the employee continued to occupy those lodgings beyond the period authorized for TQSE, his intent to reside there temporarily is evidenced by the fact that he did not sign an occupancy lease. Instead, he made arrangements to vacate those premises as soon as he secured a suitable residence for purchase. See Charles L. Wilson, B-187622, June 13, 1977; Lane, supra; Donelson, supra. While the employee's movement of his household effects into the apartment at the beginning of the occupancy is an indication the residence was intended to be permanent, we have held that the presence or absence of an employee's household effects is not by itself determinative of whether the quarters were intended to be permanent or temporary. 46 Comp. Gen. 709 (1967); Donelson, supra; Wilson, supra. Furthermore, the apparent intensity of Mr. Hawks' efforts and the immediacy with which he began his attempts to locate suitable housing lend additional support to a determination that he did not intend to occupy the apartment indefinitely.

Thus, we agree with the conclusion that Mr. Hawks did manifest an intent to occupy the apartment temporarily at the time he assumed residence there. Therefore, in this case the apartment constituted a temporary residence for which the employee is entitled to TQSE. Mr. Hawks' situation is to be distinguished from cases in which the transferred employee did not actively pursue the purchase or location of a permanent residence. Compare Richard W. Coon, B-194880, January 9, 1980.

for 
Comptroller General
of the United States