

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548**FILE:** B-207840**DATE:** January 10, 1983**MATTER OF:** Lieutenant Colonel John A.
Swallow, USAR, Retired**DIGEST:**

Army Reserve member ordered to active duty with his consent for a period of more than 20 weeks at the same location is at his permanent duty station and not entitled to per diem while there. The per diem payments he received for several periods of temporary duty at locations other than the permanent duty station are all the per diem he was entitled to receive.

Lieutenant Colonel John A. Swallow, USAR, Retired, requests reconsideration of our Claims Division's March 12, 1971 denial of his claim for per diem for the period October 11, 1968, through June 30, 1969. The claim was disallowed since members of the Reserve components called to active duty for a period of 20 or more weeks are considered to be at their permanent duty station while at the station to which assigned, and no per diem is payable for this period of active duty except when they are away from such permanent station on temporary duty as evidenced by competent orders. The denial is sustained.

Colonel Swallow was ordered to active duty with his consent by Letter Order No. A-10-570, U.S. Army Administration Center, St. Louis, Missouri, dated October 21, 1968, for the period October 11, 1968, to on or about June 28, 1969. Following an initial assignment to Fort Sheridan, Illinois, to which he was not authorized travel, he was assigned to U.S. Army Advisory Group (USAR), Fort Benjamin Harrison, Indiana, with duty station at USAR Center, Saginaw, Michigan. His orders also specified that he was not entitled to movement of household goods or travel of dependents while on this tour of active duty.

Colonel Swallow based his claim originally on grounds that he should be paid per diem while on duty because his dependents were not authorized to accompany him to his duty station. In his request for reconsideration of the disallowance, he contends that he was required to rent quarters and live on the civilian economy because Government quarters

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and mess were not available in the duty assignment area. Further, he believes that other officers in a similar capacity were allowed to have their families accompany them during like tours of duty.

The statutory authority for the payment of travel and transportation allowances to members of the uniformed services generally is contained in 37 U.S.C. 404, which provides that under regulations prescribed by the Secretaries concerned, members shall be entitled to receive such allowances for travel performed or to be performed under orders. Regulations promulgated pursuant to that authority are contained in Volume 1 of the Joint Travel Regulations (1 JTR).

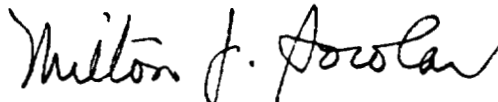
Paragraph M6001-1, ch. 183, April 1, 1968, 1 JTR, provides that members of the Reserve components called to active duty for periods of 20 weeks or more will be entitled to travel and transportation allowances prescribed in Chapter 4, Part D, ch. 189, October 1, 1968, of these regulations. Part D applies to permanent change-of-station allowances since the place to which a Reserve member on active duty is assigned for more than 20 weeks is his permanent duty station and per diem is not payable to the member while he is at his permanent station in such circumstances. See 48 Comp. Gen. 301 (1968) and 49 Comp. Gen. 320 (1969). Per diem was not authorized Colonel Swallow during the period claimed under the law and regulations except for periods of temporary duty at a location other than such permanent station, as evidenced by competent orders.

The record shows that while on this tour of active duty Colonel Swallow was ordered to perform temporary duty on eight separate occasions at locations other than his permanent station, Saginaw, Michigan, and that he was paid per diem totaling \$166 for all authorized periods of temporary duty. Therefore, it appears that he has received all per diem to which he was entitled for the the period in question.

Although Colonel Swallow may have incurred some unusual expenses during his voluntary active duty tour, his pay and allowances during such period are necessarily limited to those amounts authorized by law and the regulations.

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Accordingly, the action taken by our Claims Division disallowing Colonel Swallow's claim is sustained.

for 
Comptroller General
of the United States