

PLM 1

DECISION



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

27495

FILE: B-212327

DATE: February 22, 1984

MATTER OF: Bobby L. Cook - Temporary Quarters
Subsistence Expenses - Interruption
for Approved Sick Leave

DIGEST:

An injured employee on sick leave was transferred from Hong Kong to Dallas, Texas. On arrival in Dallas he reported by telephone to his supervisor and was officially entered on duty on January 17, 1983, without physically appearing at the office. Following surgery and recuperation, he returned to Dallas and reported for duty on March 7, 1983. He claims temporary quarters expenses for January 11 through 14 and March 6 through 26, 1983. The claim is allowed. While that interruption of temporary quarters occupancy did not involve "official necessity" as that term is used in FTR para. 2-5.2a, it does constitute a proper basis to permit extension of the 30 consecutive days since the period of surgery and recuperation was covered by approved sick leave. See B-165902, January 23, 1969.

This decision is in response to a request from the Acting Assistant Regional Commissioner, Immigration and Naturalization Service, Southern Region, Dallas, Texas, concerning the entitlement of an employee to be reimbursed for temporary quarters subsistence expenses incident to a permanent change of station in January 1983. We hold that the employee is entitled to be reimbursed.

FACTS

The employee, Mr. Bobby L. Cook, was stationed in Hong Kong, China. On December 7, 1982, he sustained a knee injury which was apparently of sufficient severity to require surgery. Due to a number of problems associated with surgery in Hong Kong and since Mr. Cook had already completed the minimum required overseas service time for transfer purposes, he sought and received a reassignment to the Dallas Office of the Immigration Service. Prior to his

028093

123477

transfer, Mr. Cook went on sick leave on December 21, 1982, as a result of his injury, and he remained in a sick leave status until March 7, 1983.

The "Notice of Station Change" issued by the Dallas Office on January 4, 1983, informed Mr. Cook that he was scheduled to enter on duty at Dallas "within 30 days of receipt of travel orders" and authorized the payment of expenses incident to the transfer, including temporary quarters expenses, in accordance with Chapter 2 of the Federal Travel Regulations. Mr. Cook and his family vacated their old residence and moved into temporary quarters in Hong Kong on January 11, 1983. On January 14, 1983, Mr. Cook and his family departed from Hong Kong and arrived in Dallas, Texas, the same day. Because he was incapacitated, he telephoned his supervisor and requested that he be entered on duty with the Dallas Office. He was officially entered on duty effective Monday, January 17, without physically appearing at the office.

On January 15, 1983, Mr. Cook and his family continued on to their home in Garrison, Texas, which is a considerable distance from Dallas. On January 26, 1983, Mr. Cook underwent surgery and remained in Garrison, Texas, in a sick leave status until March 6, 1983. On that date, he and his family traveled to Dallas and he reported for duty on Monday, March 7, 1983. He and his family occupied temporary quarters in the Dallas area from March 6, 1983, until March 26, 1983.

In his original expense voucher, Mr. Cook made claim for temporary quarters expenses for January 11 through 13 in Hong Kong and for his overnight accommodations in Dallas on January 14, as well as the expenses incurred for the period March 6 through March 26, 1983, following his return to Dallas. The Immigration and Naturalization Service allowed \$324.68 for the 3 days in Hong Kong and the first night in Dallas, but disallowed \$1,231 which represented the expenses claimed for the period on and after March 6, 1983. The reason given to Mr. Cook was that temporary quarters occupancy must be for a period of 30 consecutive days to be broken only by

temporary duty or PCS travel. Since he had begun temporary quarters occupancy on January 11, 1983, the later period in March was beyond the 30-day period and, hence, considered not payable.

Mr. Cook has appealed that disallowance and has asked whether he may be permitted to withdraw his voucher and resubmit it, deleting the January temporary quarters expenses and claiming only the period on and after March 6, 1983. The agency points out that temporary quarters occupancy must begin no later than 30 days from the date the employee reports for duty at his new duty station, or if not begun during that period, no later than 30 days from the date the family vacates the residence at the old duty station. Since Mr. Cook and his family vacated their Hong Kong residence on January 11, 1983, the agency asks whether he reported for duty on January 17, 1983, after he telephoned his supervisor, or on March 7, 1983, when he physically reported for duty?

DECISION

Payment of subsistence expenses of an employee and his immediate family while occupying temporary quarters in connection with a permanent change of station is authorized by 5 U.S.C. § 5724a(a)(3), as implemented by Chapter 2, Part 5 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR). Reimbursement for such expenses is limited to 30 consecutive days under FTR paragraph 2-5.2a.

In addition, Paragraph 2-5.2e of the FTR provides in part:

"e. Time to begin occupancy.
* * * In order to be eligible for the temporary quarters allowance, the period of use of such quarters for which a claim for reimbursement is made must begin not later than 30 days from the date the employee reported for duty at his/her new official station, or if not begun during this period, not later than 30 days from the date the family vacates the residence at the old official station, * * *."

In connection with the foregoing, paragraph 2-1.4j of the FTR provides that the effective date of a transfer from one duty station to another is the date on which the employee reports for duty at the new station. However, the concept of reporting for duty is not defined or explained elsewhere in the regulations. For the reasons stated below, we find it unnecessary to decide when Mr. Cook reported for duty at his new station.

It is clear from the record that Mr. Cook began occupancy of temporary quarters before he left Hong Kong, well within the "time to begin occupancy" requirements of FTR paragraph 2-5.2e. The question is whether he met the 30 consecutive days requirement of FTR paragraph 2-5.2a.

The genesis of the consecutive days requirement and of recognizing official necessity interruptions as an appropriate method of permitting extensions of the 30 consecutive days is found in 47 Comp. Gen. 322 (1967). Thereafter, in decision B-165902, January 23, 1969, we considered whether the permitted extension of time for temporary quarters occupancy is limited to situations involving official necessity interruptions due to temporary duty away from the employee's new duty station. We ruled therein, that the concept embodied in our ruling in 47 Comp. Gen. 322 was sufficiently broad to also permit extensions of the 30-day period when temporary quarters occupancy is interrupted by a period of hospitalization.

The then travel regulations (Bureau of the Budget Circular No. A-56), were subsequently amended on June 26, 1969, by Transmittal Memorandum No. 5, to add the consecutive days and official necessity interruption language of 47 Comp. Gen. 322. However, our ruling in B-165902, cited above, was not similarly incorporated, nor was it incorporated in the successor regulations, the FTR's. There is no indication that that ruling was administratively considered to be an inappropriate basis for permitting an extension of time for temporary quarters occupancy purposes. Therefore, we will continue to apply our decision B-165902 in sick leave situations which do not involve official necessity interruptions of temporary quarters occupancy.

B-212327

As the foregoing relates to Mr. Cook's case, his occupancy of temporary quarters was not only interrupted by permanent change-of-station travel, but also by a period of hospitalization for surgery, followed by a period of recuperation for which an extended period of sick leave was approved. Based on those circumstances, he may be reimbursed his temporary quarters subsistence expenses for the period January 11 through January 14, 1983, and March 6 through March 26, 1983.

A handwritten signature in cursive script, reading "Milton J. Aroslan".

Acting Comptroller General
of the United States