

DECISION

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

FILE: B-214146

DATE: October 24, 1984

MATTER OF: Lucy Tellez -- Lodging Expenses -- Necessity
for Receipts

DIGEST:

An employee who travels with a dependent while en route to a new permanent duty station from her old station may not be reimbursed the lodgings portion of the per diem allowance, when the pertinent regulation gives the agency discretion to require lodging receipts, the agency so requires them in its travel handbook, and the employee fails to supply the required receipts.

An authorized certifying officer of the Internal Revenue Service (IRS), Mr. Thomas N. Lyall, requests an advance decision on whether Ms. Lucy Tellez, an IRS employee, should be reimbursed \$212.62 for lodging expenses claimed for herself and her 15-year old son while traveling for 4 1/2 days in her privately-owned vehicle (POV) from her old duty station to her new permanent duty station, even though she failed to keep lodging receipts. We hold that the employee's claim must be denied. Where an agency expressly provides for a per diem allowance, based on average lodging costs, to be used by an employee while traveling with family members within the conterminous United States, the employee must state on his or her travel voucher that the per diem was based on average lodging costs and furnish the appropriate lodging receipts in order to be reimbursed.

BACKGROUND

Ms. Lucy Tellez, an IRS Revenue Officer, traveled with her 15-year old son from her old duty station in Albuquerque, New Mexico, to her new permanent assignment in Bailey's Crossroads, Virginia, using her POV. While en route to her new post-of-duty from October 24 to October 28, 1981, they stopped 4 consecutive evenings at the following locations for lodging: Elk City, Oklahoma (October 24th), Little Rock, Arkansas (October 25th),

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Nashville, Tennessee (October 26th), and Bristol, Tennessee (October 27th), until they reached their final destination of Alexandria, Virginia, on October 28th.

Based on the maximum allowable per diem of \$50 for an employee and 3/4 of the maximum per diem rate for dependents over 12 years, Ms. Tellez claimed \$225.00 for herself and \$168.75 for her son, for the 4 1/2 days of travel. Although she noted on the voucher that the per diem claim was based on the average lodging cost she attached no receipts verifying the lodging costs incurred during the trip.

The IRS disallowed the employee's claim for lodging expenses because of the absence of receipts. However, it granted Ms. Tellez \$23.00 per diem as reimbursable expense for meals and 3/4 of that amount for her son during the 4 1/2 days that they traveled, for a total of \$181.13.

The employee argues that the agency is arbitrarily misinterpreting and misquoting the relevant provisions of the Internal Revenue Service Manual 1763, Travel Handbook, (IRM 1763) sections 313 and 544. She contends that section 544 "Per Diem En Route to New Station" refers to section 313 "Rates of Per Diem" for the "express purpose of determining per diem rates," and does not require, as the agency insists, that the employee "read the entire section under 313 for complete instructions and information pertaining to rates of per diem." The IRS, on the other hand, cites express language under section 313(e) which states that "[t]he computation of average lodging cost need not be shown. However, lodging receipts must be furnished with the voucher." The employee states that there is no way for her to recall where she and her son stayed during their travel. The agency replies that absent these receipts, the average lodging cost to be used in computing Ms. Tellez' per diem is zero.

DISCUSSION

Section 5702(1) of Title 5, United States Code (1982), authorizes per diem travel allowances for employees traveling on official business inside the continental United States at a rate not to exceed \$50. Section 5707(a) of the same title allows the Administrator of General Services to prescribe regulations necessary for the administration of this subchapter.

Accordingly, the Administrator promulgated several pertinent sections in the Federal Travel Regulations. Among these provisions are Federal Travel Regulations, FPMR 101-7, para. 1-7.3c(1) and (2) (November 1, 1981), (FTR), which provide:

"(1) For travel in the conterminous United States when lodging away from the official duty station is required, the per diem rate shall be established on the basis of the average amount the traveler pays for lodging, plus an allowance of \$23 for meals and miscellaneous subsistence expenses.
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"(2) No minimum allowance is authorized for lodging since those allowances are based on actual lodging costs. Receipts for lodging costs may be required at the discretion of each agency; however, employees are required to certify on their vouchers that per diem claimed is based on the average cost for lodging while on official travel within the conterminous United States during the period covered by the voucher." (Emphasis added.)

Pursuant to the above provisions, the agency prescribed section 313 in the IRM 1763, Travel Handbook (June 4, 1981). As a general rule for rates of per diem where travel occurs within the conterminous United States and exceeds 24 hours or requires a night's lodging, section 313(1)(e) provides:

"* * * [T]he per diem rates are computed by adding \$23.00 (for meals and miscellaneous expenses) to the average lodging cost for the voucher period, then rounding this amount to the next whole dollar, with a maximum of \$50.00. The traveler must state in the voucher * * * that the per diem claimed is based on the average cost to him/her for lodging during the period covered by the voucher. The computation of

average lodging would include only those nights while in travel status * * *. The computation of average lodging cost need not be shown. However, lodging receipts must be furnished with the voucher. * * *
(Emphasis added.)

When the official traveler does not incur lodging costs, e.g., lodging accommodations on a carrier, staying with friends or relatives at a temporary duty station, etc., he must calculate the lodging cost for these nights at zero. IRM 1763, Section 313(2).

In the special case where an employee travels officially due to a transfer from his old duty station to a new permanent station, his claim is limited to per diem reimbursement instead of actual subsistence expenses under 5 U.S.C. § 5702(c) and Chapter 1, Part 8 of the FTR. In addition, FTR para. 2-2.2b(2) allows an employee to claim 3/4 of the employee's per diem rate, for a member of the immediate family over 12 years of age, traveling with him en route to the new post. Section 544(1)(a)-(d) (May 8, 1978) of the IRM 1763 repeats the above provisions of the FTR. Specifically, that section of the IRM 1763 states that per diem rates for travel of an employee and family members between old and new official stations, incident to a transfer, must use the rates prescribed in section 313.

We also note that the lack of a receipt in a claim for reimbursable travel expenses will be excused where support documents are "impracticable to obtain." Although failure to supply the accompanying receipts must be fully explained on the travel voucher for reimbursement of the employee's expenses, "[m]ere inconvenience in the matter of taking receipts shall not be considered." FTR para. 1-11.3d(1).

As a general rule, we have disallowed reimbursement where an employee has not submitted the required lodging receipts and cannot confirm the actual amounts paid for subsistence expenses while occupying temporary quarters at a new duty station. Anthony P. DeVito, B-196950, March 24, 1980; Franklin G. Goss, B-200841, November 19, 1981. See FTR, para. 2-5.4b. In both cases, employees were authorized reimbursement of temporary subsistence

expenses when transferred to a new permanent duty station. Neither, however, maintained lodging receipts as required by FTR para. 2-5.4b for temporary quarters, and therefore, both were ineligible for reimbursement of any lodging expenses incident to the use of temporary quarters. Where the Federal Travel Regulations give an agency discretion as to whether or not to require a transferred employee to provide lodging receipts in order to be reimbursed, and the agency so requires, the principle demonstrated above for the lack of receipts for temporary subsistence expenses should apply.

In one exception, however, Goldstein and Tillmann, B-192138, April 9, 1979, where employees acted in reliance on erroneously issued travel orders and did not obtain lodging receipts while performing temporary duty in a high-rate geographical area, we allowed reimbursement of these costs on the basis of actual subsistence costs, not on "lodging plus," as long as the travelers could fully explain their lack of receipts pursuant to FTR para. 1-11.3d(1) and could itemize their expenses. (See FTR para. 1-8.1e.)

Thus, following the principle of Goss and DeVito for disallowing reimbursement claims associated with temporary subsistence expenses without lodging receipts, and taking note of the agency's discretion to require such documentation in support of per diem claims for en route travel to new duty posts, we agree with the agency's interpretation of the applicable FTR and IRM 1763 provisions. Since IRM 1763 Section 544(1) refers to the "rates prescribed in 313," and the title for the latter section is "Rates of Per Diem," the intent of 544 clearly is to refer to all of section 313, so that the requirement for lodging receipts for official travelers on a per diem allowance must also apply to the special case of an employee who is traveling from an old duty station to a new one.

Additionally, the agency's intent is unmistakably shown on the reverse side of the IRS Travel Voucher, in the "Schedule of Expenses and Amounts Claimed," on which Ms. Tellez submitted her claimed per diem lodging expenses for herself and her son. While this form does not state a need for receipts under categories of "Meals" and "Miscellaneous" itemized subsistence expenses, it does

state expressly "Lodgings (Receipts required)." The language in IRM 1763, section 313(1)(e) may not be taken out of context for the purpose of determining per diem rates, as the employee suggests, and must be read as a whole to require receipts to support per diem claims for en route travel to a new duty station.

Finally, Ms. Tellez does not fall within the Goldstein and Tillman exception since no evidence on the record exists to indicate that the agency misled her as to the need for these receipts or that the lack of these receipts is excused under FTR para. 1-11.3d(1) as "impracticable to obtain."

For the above stated reasons, we hold that Ms. Tellez is not entitled to claim reimbursement of \$212.62 for herself and her son for lodging costs en route to her new duty station because she failed to maintain the accompanying receipts as required by the FTR and agency travel provisions.



Acting Comptroller General
of the United States