



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Robert J. Gofus - Reimbursement for Noncommercial  
Lodging  
**File:** B-223805  
**Date:** March 20, 1987

---

### DIGEST

1. Agency's disallowance of employee's claim for \$20 per night paid to employee's parents for lodging with them in New York City while assigned there on official business is sustained. Employee submitted no documentation of the specific expenses incurred by his parents. Under these circumstances, the agency's determination that the amount claimed was excessive is not clearly erroneous, arbitrary, or capricious.

---

### DECISION

The issue in this case is whether an employee may be reimbursed the \$20 per night that he paid to his parents for lodging with them in New York City while assigned there on official business. The agency's disallowance of the claim is sustained.

### FACTS

Mr. Robert J. Gofus, an employee of the Internal Revenue Service (IRS) who is permanently stationed in Cincinnati, was on official business in New York City for 11 days, February 2, 1986, through February 14, 1986. New York City is a high-rate geographical area and amounts otherwise proper up to \$75 per day were reimbursable at that time. While there he stayed with his parents in Freeport, New York, and ate breakfast and dinner at their home. Upon his return to Cincinnati he submitted a voucher for \$35 a day, \$385 total, for payments made to his father for food and lodgings, plus lunch and transportation costs. Statements signed by Mr. Gofus and his father accompanied his voucher to verify payment of the \$35 per day.

Mr. Gofus claimed lunch cost for 9 days at figures ranging from \$3.50-\$5.75, for a total of \$38.75 or an average of

038416 -132539

\$4.31. He claimed transportation costs to and from work in New York City for 9 days, for a total of \$124.65 or an average of \$13.85. These costs were reimbursed but the \$35 per day claimed for food and lodging with his parents was disallowed as excessive.

On reclaim Mr. Gofus estimated his expenses at \$3 per day for breakfast, \$12 per day for dinner, and \$20 per day for lodging. The agency paid the \$15 per day estimated for breakfast and dinner, but denied the \$20 per day for lodging absent further documentation.

Mr. Gofus then submitted another reclaim voucher for the \$220 lodging cost. He argues that this amount is reasonable for a high-rate geographical area allowing \$75 per day. He states that the costs of meals provided may well have been higher but the \$20 claimed for lodging is the best estimate of what he and his parents deemed appropriate. He argues that it is unreasonable to expect the traveler to document the actual cost of expenditures to maintain a room. Those costs would include making the bed, doing the wash, cleaning the bathroom, cost for utilities, etc.

The certifying officer determined that the \$20 per day was still excessive, but because there are no specific guidelines as to what is reasonable and the employee was insisting that his claim was reasonable, the matter was submitted for a decision by this Office.

#### DISCUSSION

When an employee stays in noncommercial lodging he must show not only that the costs claimed were paid, but also that the payment was reasonable under the circumstances. B-217989, September 17, 1985. What is reasonable depends on the circumstances of each case. The number of individuals involved, whether the relative or friend had to hire extra help to provide lodging and meals, the extra work performed by the relative, and possibly other factors would be for consideration. 52 Comp. Gen. 78 (1972). Costs claimed should be considerably less than comparable commercial lodging. Clarence R. Foltz, 55 Comp. Gen. 856, at 858 (1976).

The IRS had not established a flat per diem rate applicable when employees stay with friends or relatives. Instead, its travel handbook at page 1763-57, paragraph 314 (2)(a)

(10-20-82), provides that lodging costs will be considered as zero unless the employee submits documentation of additional costs. Pursuant to these regulations, the agency denied reimbursement for the amount claimed since Mr. Gofus has not submitted documentation of the specific costs incurred by his parents.

It is for the agency to determine in the first instance what constitutes reasonable expenses. Where, as here, it has exercised that responsibility, we will not substitute our judgment for that of the agency unless the agency's determination is clearly erroneous, arbitrary, or capricious. Harry G. Bayne, 61 Comp. Gen. 13/(1981). We cannot say here that the agency's denial of Mr. Gofus' claim is clearly erroneous, arbitrary, or capricious.

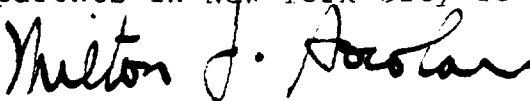
As provided in IRS regulations, and by our cases, reimbursement should be denied in the absence of documentation that the employee actually incurred a legal obligation to pay and that the expenses claimed were reasonable under the circumstances. When an employee temporarily uses lodging facilities owned by a relative, a statement signed by that relative as to the value of the lodging and subsistence -- provided does not necessarily establish that there was a legal obligation to make payment, or that the amount paid was reasonable. Herman Zivetz, B-213868, July 12, 1984; and William J. Toth, B-215450, December 27, 1984. Therefore, additional documentation is necessary.

We agree with Mr. Gofus that the cost of lodging with friends or relatives is difficult to document. We note, however, that the recent amendment to the Federal Travel Regulations (FTR) issued to implement Public Law 99-234, 99 Stat. 1756, January 2, 1986, which apply to travel performed after July 1, 1986, provide as follows at para. 1-7.5c(2)(c) (FPMR A-40, Supp. 20, May 30, 1986), 51 Fed. Reg. 19660, 19664 May 30, 1986:

"(c) Lodging with friends or relatives. When the employee obtains lodging from friends or relatives (including members of the immediate family) with or without charge, no part of the per diem allowance will be allowed for lodging unless the host actually incurs additional costs in accommodating the traveler. In such

instances, the additional costs substantiated by the employee and determined to be reasonable by the agency will be allowed as a lodging expense. Neither costs based on room rates for comparable commercial lodging in the area nor flat 'token' amounts will be considered as reasonable."

In line with the above, the agency's action in denying the claim of Mr. Gofus for \$20 per night while lodging with his parents in New York City is sustained.

*for*   
Comptroller General  
of the United States