



The Comptroller General
of the United States

Washington, D.C. 20548

Rosenlof - PL4

Decision

Matter of: Kent N. Rosenlof - Temporary Quarters Subsistence
Expenses
File: B-227381
Date: September 29, 1987

DIGEST

A transferred employee purchased a residence under construction. Pending its completion, he and his family lived in other quarters and were reimbursed temporary quarters subsistence expenses. Upon construction completion, the employee and his family moved into the new house on a rental basis pending settlement, and he claims a continuing right to temporary quarters based on fact that the temporary quarters authorization period which covered in part the new house rental period, was issued before he began that occupancy. The claim is denied. Under paragraph 2-5.2 of the Federal Travel Regulations, the allowance is authorized only while the employee is in temporary quarters. Once an employee occupies a residence with the intention to make it his permanent residence, entitlement to temporary quarters terminates.

DECISION

This decision is in response to a request from an Authorized Certifying Officer, Department of the Interior. It concerns the entitlement of an employee of the Bureau of Reclamation to be reimbursed temporary quarters subsistence expenses during the period he occupied the house that became his permanent residence. We hold that the employee may not be so reimbursed, for the following reasons.

BACKGROUND

Mr. Kent N. Rosenlof, an employee of the Bureau of Reclamation in Salt Lake City, Utah, was transferred to the Bureau's Denver, Colorado, office, with a reporting date of October 29, 1986. The travel authorization issued to him authorized, among other things, round-trip travel to seek permanent quarters, not to exceed 10 days and temporary quarters not to exceed 30 days less the prior period actually spent househunting.

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Mr. Rosenlof and his wife spent 6 days househunting from October 16 through October 21, 1986. On October 20, 1986, they executed a purchase contract for a residence which was then under construction but which had an anticipated completion date at the end of November. Upon actual transfer on October 29, 1986, Mr. Rosenlof and his family took up quarters in a local motel where they remained until December 1, 1986, when they moved into the house they contracted to purchase.

Since his initial temporary quarters period would expire before the end of November, Mr. Rosenlof requested a 90-day extension on November 21, 1986. Approval was granted, but the additional period was reduced to 30 days. Thereafter, an additional 60-day period of temporary quarters was requested and approved.

In January 1987, Mr. Rosenlof filed a voucher claiming temporary quarters entitlement for the second 30-day period beginning November 22, 1986. He was paid \$4,644.20 for that period. Upon audit of later submitted vouchers covering additional temporary quarters and his real estate transaction expenses, it was discovered that Mr. Rosenlof and his family had been occupying the residence they had contracted to purchase since December 1, 1986. The previously paid temporary quarters for the period December 1 to December 21, 1986, was billed to Mr. Rosenlof and the subsequent periods of claimed temporary quarters were disallowed.

Mr. Rosenlof appealed that determination, contending that even though he did occupy that house beginning December 1, the temporary quarters extension already had been granted and it made no difference where he actually resided during that time. He asserts that had he been advised that it was impermissible to receive temporary quarters while occupying housing which would become permanent, he would not have moved into that residence before settlement in February 1987.

RULING

The payment of subsistence expenses while occupying temporary quarters is authorized under 5 U.S.C. § 5724a(a)(3), and implementing regulations contained in Chapter 2, Part 5, of the Federal Travel Regulations, FPMR 101-7 (September 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (FTR), as amended, in part, by GSA Bulletin FPMR A-40, Supp. 4 (effective October 1982). As amended, paragraph 2-5.2c of the FTR provides:

"c. What constitutes temporary quarters.
Generally, the term 'temporary quarters' refers to

lodging obtained from private or commercial sources for the purpose of temporary occupancy after vacating the residence occupied when the transfer was authorized. However, occupancy of temporary quarters that eventually become the employee's permanent residence shall not prevent payment of the temporary quarters allowance if, in the agency's judgment, the employee shows satisfactorily that the quarters occupied were intended initially to be only temporary. In making this determination the agency should consider factors such as: the duration of the lease, movement of household effects into the quarters, type of quarters, expressions of intent, attempts to secure a permanent dwelling, and the length of time the employee occupies the quarters."

There is no indication that in the present case Mr. Rosenlof intended to occupy these quarters on a temporary basis only. Thus, he would not qualify for the exception set forth in the second and third sentences of FTR paragraph 2-5.2c, quoted above.

Paragraph 2-5.2d of the FTR provides, in part, that "[T]emporary quarters should be regarded as an expedient to be used only if or for as long as necessary until the employee concerned can move into permanent residence quarters." Additionally, paragraph 2-5.2f of the FTR states that entitlement to temporary quarters expense terminates "* * * when the employee or any member of the immediate family occupies permanent residence quarters, or when the allowable time limit expires, whichever occurs first."

In James W. Pierce, B-202103, July 16, 1981, we held that where an employee purchased a house which was ready for occupancy and moved in on a rental basis pending purchase settlement, he was not entitled to temporary quarters during the rental period. That conclusion was reached because the record showed that it was the employee's intention at the time he moved into the house to make it his permanent residence. See also William E. Klotz, B-203222, January 5, 1982.

We have also ruled that where an employee purchases a house under construction and, pending its completion, occupied it with the intention of making it his permanent residence, temporary quarters entitlement ceases at that time, even though the employee's furniture had not been delivered and the house was not suitable for occupancy because the utilities had not been hooked up. See Henry W. Whitley, B-198026, June 11, 1980, and cases cited.

Thus, under the language of the regulations and our decisions, once occupancy of a residence which is intended to be the employee's permanent quarters occurs, even on a rental basis, entitlement to temporary quarters terminates. Mr. Rosenlof's temporary quarters entitlement terminated on December 1, 1986, when he moved from a motel into the residence he contracted to purchase as his permanent residence, even though he did not acquire ownership until February 10, 1987.

for *Harry R. Jan Chan*
Comptroller General
of the United States