



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

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Matter of: Doubtful or Fraudulent Travel Claims

File: B-230385

Date: January 16, 1990

DIGEST

1. Where an employee submits false receipts for lodgings in connection with temporary duty travel, the evidence may overcome the presumption of honesty and fair dealing and constitute fraud. A fraudulent claim for lodging costs taints the entire claim of per diem for a given day.
2. Where the agency does not establish fraud by the employee in the submission of claims for lodging costs, the agency may still deny reimbursement or recoup prior payments for lodging costs if the employee has not submitted sufficient evidence that the costs were actually incurred.
3. An employee's claim for temporary duty lodging costs in a residence which he owns and holds as rental property may not be paid absent clear and convincing evidence that but for his lodging there while on temporary duty, the residence would have been rented during the period of his claim.
4. The requirement in paragraph 1-11.4 of the Federal Travel Regulations for supervisory review of travel vouchers merely requires a verification that the travel was performed and does not require a verification of the expenses claimed.

DECISION

This decision is in response to a request by Ms. Joanne C. Henry, Authorized Certifying Officer, Bonneville Power Administration (BPA), Department of Energy, for a decision regarding per diem and lodging claims submitted by a former employee of BPA. Since the agency considers many of these subsistence and lodgings claims over a 5-year period to be doubtful, falsified, or possibly fraudulent, the agency asks whether certain unpaid claims may be paid and what amounts should be recovered from claims which have been paid.

At the outset, we note that it is the employee's responsibility to satisfactorily establish the government's liability for payment of temporary duty travel expenses. Raymond Eluhow, B-198438, Mar. 2, 1983. With respect to the issue of whether certain claims may be considered fraudulent in nature, our Office has held that the burden of establishing fraud rests with the party alleging fraud and that it must be proven by evidence sufficient to overcome the existing presumption in favor of honesty and fair dealing. B-220119, Nov. 14, 1988; Charles W. Hahn, B-187975, July 28, 1977. Circumstantial evidence may be used if it establishes a clear inference of fraud and constitutes more than suspicion or conjecture, but if the circumstances are as consistent with honesty and good faith as with dishonesty, the presumption of honesty will prevail. Hahn, B-187975, supra.

The claims for subsistence and lodgings may be summarized as follows.

FALSIFIED LODGINGS CLAIMS

For the period from January to July 1982, the employee claimed 134 days of lodging expenses but only 55 days could be verified by agency investigations. The agency asks whether the lodgings portion or the entire per diem claim must be recovered for those days in which unverified lodgings claims were submitted. In addition, for the period from September through November 1985, the employee submitted receipts in the amount of \$1,000 for the cost of lodging and he was reimbursed for his travel expenses based on those claims. Subsequently, the agency investigated and obtained receipts from the employee's landlord in the amount of \$500. The agency questions whether it should seek recovery of the \$500 difference or whether the apparently false claims taint the per diem claims for each day.

For the period from June through September 1986, the employee claimed that he rented space in a trailer park at a cost of \$150 per month. Further investigation by the agency cast doubt whether the receipts provided by the employee were valid since the receipts were provided by a gasoline station with no apparent connection with the trailer park. In addition, agency officials could not locate the trailer space allegedly used by the employee, and the trailer park owner stated that the employee had parked his camper at the facility only "on a few occasions." Finally, the receipts submitted by the employee showed signs of alterations or tampering.

We have held that the submission of false receipts in support of claims for travel expenses is sufficient to overcome the presumption in favor of honesty and fair dealing. B-220119, supra. In the absence of information explaining these discrepancies, it appears that the agency has a basis to conclude that these claims are fraudulent in nature.

Our Office has held that each day of per diem or each day of actual subsistence allowance is a separate item for the purpose of evaluating a voucher which contains fraudulent claims. A fraudulent claim for lodging costs taints the entire item of per diem or actual subsistence expenses for a given day. See 59 Comp. Gen. 99, 101 (1979); B-207992, Dec. 21, 1982. Therefore, if the agency does conclude that fraudulent lodgings claims were submitted, recoupment action should be taken to recover the entire amounts paid for those days in question.

USE OF INVESTMENT PROPERTY

During the period from October 1986 through January 1987, the employee claimed lodging expenses of \$500 per month for rental of a house in Hayden Lake, Idaho. Further investigation by the agency revealed that the employee had purchased this residence in July 1986, apparently for investment reasons, and that he had entered into an agreement with Homefinders (a real estate management company). Under the agreement, the employee would pay Homefinders \$500 per month and Homefinders would pay \$483 per month on his mortgage, leaving them with a \$17 profit. The agency questions whether these claims may be paid.

Our decisions have held that an employee who, while on temporary duty, lodges in a residence which he owns and holds as rental property may be paid lodging expenses based on prorated monthly mortgage interest, property taxes, and utilities as costs occasioned by the temporary assignment. Robert E. Larrabee, 57 Comp. Gen. 147 (1977). However, the employee must provide clear and convincing evidence that, but for his lodging there while on temporary duty, the residence would have been rented during the period of his claim. George R. Staton, B-201574, Aug. 24, 1981. Here, the record contains no such evidence. If the employee provides the agency with records showing that the property is held and used as a rental property and that it would have been rented during the entire period of the claim, a proration of the monthly interest, property taxes, and utilities paid for this residence may be considered for payment. Rodney J. Gardner, B-210755, May 16, 1983.

Although the employee may or may not be entitled to reimbursement for lodgings costs at this residence at Hayden Lake, Idaho, he would be entitled to reimbursement for appropriate meals and miscellaneous expenses incurred during the period of his claim. Theodore H. Clark, Jr., B-217629, May 13, 1986.

FORFEITED HOTEL PAYMENTS

In the course of a review of the employee's lodging expenses, the agency discovered that the employee claimed lodging expenses at a motor inn in Bend, Oregon, for the period February 8-17, 1987. Although he paid for 9 nights of lodging (\$100), the employee apparently checked out on Friday, February 13, and did not receive any refund in view of the motel's posted policy not to give refunds. The agency does not know where the employee stayed for 4 nights from February 13-16, 1987, and the agency questions whether to pay his claim for per diem for this period.

It is not clear from the record before us what evidence the agency has to support its determination that the employee vacated the lodgings before the last day claimed on his voucher for travel expense reimbursement. As noted above, if the evidence overcomes the presumption of honesty and fair dealing, the claim for lodgings for the period of February 13-16 may be considered fraudulent. In this event, no per diem could be allowed for those days. If the evidence does not overcome the presumption, then the employee may be reimbursed the meals and miscellaneous expense portion of his claim for the period of February 13-16. In addition, the employee may be paid for per diem for the period February 8 through 12, 1987, based on the average lodging costs of \$11.11 per night (\$100 divided by the entire period of 9 days).

SUPERVISOR'S APPROVAL OF TRAVEL ITINERARY AND EXPENSES

The agency reports that the employee's supervisor declined to approve the employee's Statement of Travel forms for the period May 1986 to March 1987. These forms, which are used in the preparation of a voucher by agency officials, summarize the traveler's itinerary and expenses for each period of travel. The agency asks whether the employee's voucher may be paid in the absence of supervisory approval as required under paragraph 1-11.4 of the Federal Travel Regulations.^{1/}

^{1/} FTR (Supp. 9, May 14, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1987).

Paragraph 1-11.4(b) of the FTR requires supervisory review of the employee's travel voucher but, as the paragraph states, the purpose of the review is "primarily to confirm that the travel for which expenses are being claimed was performed as authorized." FTR, para. 1-11.4(b). The FTR goes on to state that this review should not be a detailed audit for accuracy and should not duplicate the functions of voucher examiners or certifying officers.

If the employee's supervisor is unwilling or unable to verify or attest to the employee's travel during this period, we suggest that the agency determine if another supervisory official could confirm the employee's travel during this period. In the alternative, if, on the basis of other evidence, the agency believes this travel was performed in the manner described, these vouchers should be submitted to the certifying officer for approval or disapproval.

for Milton J. Fowler
Comptroller General
of the United States