



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Jerry W. Blevins - Claim for Temporary Quarters
Subsistence Expenses

File: B-231512

Date: September 21, 1989

DIGEST

1. An employee, who was removed from his position in Europe in 1983, returned to the United States at his own expense. When his removal was overturned in 1985, the agency issued travel orders to reimburse him for his and his family's relocation expenses. Under the circumstances, the employee should be given a further opportunity to prove his relocation expenses.
2. When an employee and his family stay in the home of his parents, the amount paid to the host must reasonably reflect the added expenses to the host and must not be determined on the basis of the comparative cost of commercial quarters. Since there are not, and never were, any records of the added expenses to the host, we must deny the employee's claim for the lodgings portion of his temporary quarters subsistence expenses.
3. Where an employee no longer has any detailed records of meal expenses for his temporary quarters claim but merely estimates the cost, he has failed to meet his burden of proof. However, in view of the length of time between the employee's improper discharge and reinstatement, and the lack of any extant records, we are returning the meal expenses portion of his temporary quarters claim to the Army so that it may determine the reasonableness of that expenditure based on valid statistical references and thus reimburse the employee on that basis.
4. Since a federal employee is not a "business concern," the Prompt Payment Act may not be used as authority to pay him an interest penalty on his claim for temporary quarters subsistence expenses.

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DECISION

This decision is in response to a request from the Department of the Army concerning whether Mr. Jerry W. Blevins is entitled to any reimbursement on his claim for temporary quarters subsistence expenses.^{1/} For the following reasons, we now allow only the laundry expenses portion of his claim, but we remand the claim to the Army to allow it to determine the reasonable costs of the meal expenses portion of his claim under the criteria set forth below.

BACKGROUND

On May 13, 1983, the Army removed Mr. Blevins from his civilian position in Europe. In 1985, the Army was ordered to reinstate him retroactively, and the Army issued travel orders to reimburse him and his family for his change-of-station transfer from Europe to the continental United States in 1983. The only portion of his claim for relocation expenses which is now in dispute is his claim for temporary quarters subsistence expenses in the amount of \$5,528, plus interest, for a period of 59 days (June 3 to July 31, 1983). The Army does not question Mr. Blevins's entitlement to temporary quarters but asks if the claim can be paid in view of his claim for lodging with his parents and lack of receipts.

OPINION

With regard to his lodgings claim, Mr. Blevins states he agreed to pay his parents \$25 per day for 59 days for the lodging expenses of himself and his family in his parents' home. The rate was set at one-half of the then-current maximum rate allowed for federal employees' lodging expenses. Thus, the total claim for lodgings is \$1,475.

Our decisions have held that when an employee stays in noncommercial lodgings for which he is entitled to reimbursement of his actual expenses, he must show not only that the costs claimed were paid but also that the payment was reasonable in the circumstances. See 52 Comp. Gen. 78 (1972). Furthermore, in order to be reimbursable, the amount paid to the host must reasonably reflect the added expenses to the host and must not be determined on the basis

^{1/} The request was submitted by Colonel G. L. Nix, Finance Corps, Office of the Director of Finance and Accounting, Department of the Army.

of the comparative cost of commercial quarters. Jerome R. Serie, 65 Comp. Gen. 287 (1986); Clarence R. Foltz, 55 Comp. Gen. 856 (1976); 52 Comp. Gen. 78, supra. We have held that even if receipts are given, they will not alone justify reimbursement because the giving of receipts when not in the course of a normal business transaction does not demonstrate that the payments were required or that they were based on the added expenses of the supplier of the quarters. William J. Toth, B-215450, Dec. 27, 1984; Herman Zivetz, B-213868, July 12, 1984.

The amount in question here, \$25 per day for lodging, was determined by comparison to the maximum rate allowed for lodging expenses. Such a method is not authorized for fixing appropriate reimbursement for the occupancy of noncommercial quarters. Rather, the employee must prove the added costs incurred by the person who supplied the quarters. Since Mr. Blevins has not supported his claim and there are not, and never were, any records of these added costs, his claim of \$1,475 for lodging expenses is denied.

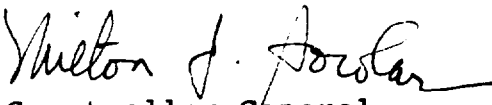
Mr. Blevins also claims \$3,835 in meal expenses for himself and his family over a period of 59 days. He states that he no longer has any detailed record of these expenses, but he has estimated a cost of \$65 per day, which he maintains is substantially below the actual cost. The burden of proof is on the claimant to establish the liability of the government and his right to payment. 4 C.F.R. § 31.7 (1988). In the absence of proof that the employee actually incurred these expenses or that the expenses claimed were reasonable under the circumstances, we cannot now allow the meal expenses portion of his claim. However, in view of the length of time between Mr. Blevins's improper discharge and reinstatement and the lack of any extant records, we are returning the meal expenses portion of his temporary quarters claim to the Army so that it may determine the reasonableness of that expenditure based on valid statistical references for his temporary quarters location, his parents' home in Sacramento, California. The Army may use any valid statistical references such as figures from the Bureau of Labor Statistics or the Runzheimer Index as an appropriate measure to determine the reasonable costs of the meal expenses portion of Mr. Blevins's claim for temporary quarters. Without further referral to our Office, the Army may then allow the reasonable costs of that portion of Mr. Blevins's claim. See R. Alex Martinez, B-231776, July 13, 1989, 68 Comp. Gen. ____.

Mr. Blevins also claims \$122 for laundry expenses, consisting of \$120 in coin-operated laundry expenses and \$2 for other laundry expenses. Since receipts are not required for

coin-operated laundry expenses and these expenses appear reasonable to the Army for the period of time involved, we grant his claim of \$122 for laundry expenses.^{2/}

Finally, Mr. Blevins claims interest on his temporary quarters reimbursement from 1983 to the present under the Prompt Payment Act, as amended, 31 U.S.C. §§ 3901-3906 (Supp. IV 1986). However, that Act's provision for interest penalties against the government applies only to a "business concern." See 31 U.S.C. §§ 3901(a)(2) and 3902. Since Mr. Blevins as a federal employee is not a "business concern," the Prompt Payment Act may not be used as authority to pay him interest. David W. Eubank, B-219526, May 25, 1988. Although the Back Pay Act has been amended to allow interest on backpay awards, that authority applies only to backpay determinations rendered on or after December 22, 1987. See Section 101(m) of Pub. L. 100-102, 101 Stat. 1329, 1428 (1987), amending 5 U.S.C. § 5596.

Accordingly, we are returning Mr. Blevins's voucher with instructions to the Army to process it consistent with this decision.

for 
Comptroller General
of the United States

^{2/} Federal Travel Regulations, para. 2-5.4b, (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1985).