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Heitzman



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Jack B. Allen  
**File:** B-247072  
**Date:** May 20, 1992

### DIGEST

Civilian employee of the Department of the Army on temporary duty may not be reimbursed for commercial lodging and meals where government lodging and meals were available. Employee failed to obtain a certificate of nonavailability of government furnished quarters in accordance with 2 Joint Travel Regulation (2 JTR), para. C1055, Army Regulation 210-50, Family Housing Management, cited by employee in support of his claim, is not applicable.

### DECISION

Mr. Jack B. Allen, a civilian employee of the Department of the Army, appeals our Claims Group settlement<sup>1</sup> which denied his request for per diem incident to two temporary duty assignments. The issue presented is whether Mr. Allen can be reimbursed for commercial lodging and meals he obtained when government furnished lodging and meals were available at no cost.

Mr. Allen, whose official duty station is Camp Zama, Japan, was ordered to perform temporary duty at Camp Higashi, Chitose, Japan, from January 19 through February 3, 1991, and at Fort DeRussy, Hawaii, from May 14 through May 22, 1991. The duty was designated as a "Command Post Exercise" in which civilians provide support to military personnel under field conditions. Mr. Allen's orders for the duty in Japan specified that occupancy of transient billeting is impractical, would adversely affect the mission, and that government facilities would be provided. The travel orders for the duty in Hawaii stated that civilians would be provided lodging (double occupancy) and two meals at no cost.

Our Claims Group denied Mr. Allen's request for reimbursement on the basis that Congress has placed a limitation in the Department of Defense (DOD) annual

<sup>1</sup>Z-2867230, Aug. 12, 1991.

appropriation providing that none of the funds appropriated are available to pay lodging expenses incurred by any person on official business away from his regular place of duty when adequate government quarters are available, but are not occupied by such person. Thus, if a DOD employee stays in commercial lodging while on temporary duty and adequate government quarters are available, then generally the employee cannot receive the lodging portion of his per diem allowance. Shirley Oliveira, 69 Comp. Gen. 205 (1990); Charles L. Adams, B-231658, Nov. 22, 1988; Jerry Cardinal, B-191297, Aug. 2, 1979.

Mr. Allen contends that the government facilities were inadequate at both locations, and because of this he obtained commercial lodgings and meals. Mr. Allen has prepared a statement as to nonutilization of government furnished quarters which he alleges is in compliance with 2 Joint Travel Regulation (2 JTR) para. C1055-2 & C1055-4.5 (Ch. 267, Jan. 1, 1988), which provide that an employee's statement alone will support payment of per diem allowances where the nonavailability of adequate government quarters can be ascertained by reference to a publication issued by the Uniformed Service concerned. Mr. Allen contends that the publication referred to in 2 JTR is Army Regulation (AR) 210-50, Family Housing Management, which stipulates that a civilian employee on temporary duty is entitled to, among other things, a private room.

We agree with our Claims Group's determination. Mr. Allen has assumed, without any supporting evidence, that AR 210-50, Family Housing Management, is the publication referred to in 2 JTR para. C1055-2, and C1055-4, supra, in support of his claim that the employee's own statement will suffice. Mr. Allen's assumption is incorrect. We have been advised by the Per Diem, Travel and Transportation Allowance Committee, and by the Department of the Army, Office of the Deputy Chief of Staff for Personnel, that the publication referred to in 2 JTR is a list of various installations worldwide where adequate government furnished facilities are not available. For the Army, the publication is a message that is issued periodically. For the Air Force, it is a specific publication, Air Force Regulation 90-13, Directory of Government Quarters and Dining. An employee does not need to obtain a certificate of nonavailability for temporary duty performed at one of the installations listed in the applicable publication. The two locations where Mr. Allen performed temporary duty are not on the Army's list of installations where adequate government facilities are not available.

Accordingly, since Mr. Allen did not obtain a certificate of nonavailability of government furnished quarters as provided

for by regulation, and such quarters were available, his  
claim for reimbursement is denied.

*for* *Seymour E. Hinchman*  
James F. Hinchman  
General Counsel