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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-194617

DATE: June 27, 1980

MATTER OF: John D. Murray - [Claim for Per Diem]

- DIGEST:
1. Customs inspector voluntarily undertook to travel directly from his residence in Sebastopol, California, to temporary work place without first reporting daily at headquarters in San Francisco. Agency approved inspector's direct travel which was for his personal convenience but advised that per diem was not authorized. Employee then obtained temporary lodging near work place for his additional convenience. Employee is not entitled to per diem since agency properly exercised discretion to refuse per diem when expenses of reporting to nearby temporary duty place do not exceed expense of reporting to headquarters.
 2. Claim of employee of Bureau of Customs for pay (travel) was filed with GAO Claims Division and then forwarded by Claims Division to employee's agency for appropriate administrative action in accordance with regulations. Our Office declines to take any action on claim since claims are settled on basis of written record and there is no report from agency or adequate evidence from claimant to support claim. See 4 C.F.R. § 37.1.

Mr. John D. Murray, a former custom inspector with the Bureau of Customs, U.S. Treasury Department, requests reconsideration of our Claims Division's settlement certificate dated July 3, 1973, which denied his claim for reimbursement of per diem in the amount of \$1,350 incident to a temporary assignment during the period July 6, 1971, to October 1, 1971. We sustain the denial of the claim because

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B-194617

his agency properly exercised its discretion to refuse to authorize per diem.

Also, we have considered Mr. Murray's letter of June 16, 1975, with respect to a claim for pay (travel) incident to certain overtime assignments during the period from May 28, 1966, through November 3, 1971. We decline taking any settlement action with respect to that claim for the reasons stated below.

The record shows that during the period of the per diem claim in question, the customs inspectors at the claimant's regular work place--Pier 80, San Francisco, California, there was a waterfront strike. In order to keep the Pier 80 inspectors employed the Bureau of Customs assigned a portion of the inspectors to customs inspection of military cargo at Travis Air Force Base (Travis AFB). A rotation plan was devised to ensure that a few inspectors at a time were given short assignments to Travis AFB at regular intervals, thus preventing anyone from carrying an unequal burden. Government vehicles were provided daily to shuttle the designated inspectors from Pier 80 to Travis AFB on Government time, i.e. after the inspectors reported for duty at Pier 80.

Upon learning the details of this program, the claimant requested permission to travel directly from his residence in Sebastopol, California, to Travis AFB in his personal vehicle, thereby avoiding a longer commute to Pier 80. To take full advantage of the shorter home-to-work travel time, the claimant also requested permission to work at Travis AFB for the duration of the strike, a period that proved to be longer than the period initially envisioned under the rotation plan. Permission was granted to each of the claimant's requests, but the claimant was explicitly advised that he would not be authorized to receive a per diem allowance.

The claimant worked at Travis AFB, for 54 days. But instead of commuting from home to work every day, he took temporary lodgings closer to Travis AFB for his own convenience. Nevertheless

B-194617

he feels that he is entitled to per diem reimbursement for 54 days.

Bureau of the Budget Circular A-7, Revised, January 28, 1965, Standardized Government Travel Regulations (SGTR), paragraph 2.1(a), provides:

"2.1 Form of authority. Except as otherwise provided by law all travel will be either authorized or approved by the head of the agency or by an official to whom such authority has been delegated."

The record shows that the agency expressly refused to authorize per diem for the claimant. In this connection we have held that administrative officials may, in the exercise of their discretion, refuse to authorize reimbursement for expenses incurred on account of travel from the employees home to a nearby temporary place of duty if such expenses do not exceed normal commuting costs. 32 Comp. Gen. 235 (1952). In making this determination, administrative officials are to give due consideration to the interest of both the Government and the employee.

In the instant case the claimant requested an extension of his temporary assignment to Travis AFB beyond the normal rotational time limit for such assignments, and an extension was granted. Also, the claimant requested to be excused from commuting daily to his regular work place at Pier 80 where Government transportation was always available to him. Mr. Murray made the request because his commute to Travis AFB from Sebastopol was expected to be less costly in terms of time and money than his normal commute to Pier 80. These special concessions were granted by the agency entirely for the personal convenience of the claimant.

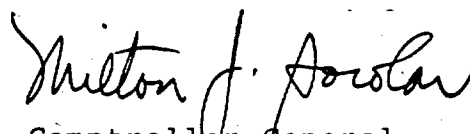
The claimant's assertion that other employees of his agency received per diem allowance while assigned to Travis AFB has no relevance since that fact does not affect the validity of his claim. Also, the claimant obtained temporary lodging with the full awareness that his expenses would not be reimbursed by the agency.

B-194617

Accordingly, we find that the agency's denial of authorization, for per diem was a proper exercise of discretion and we sustain the disallowance of the claim.

Mr. Murray also made a separate claim for overtime pay and travel expenses in a letter dated June 16, 1975, incident to certain overtime assignments to Travis AFB during the period May 28, 1966, to November 3, 1971. In accordance with regulations our Claims Division referred Mr. Murray's claim to the Bureau of Customs by letter, dated August 19, 1975. Mr. Murray was, at that time, advised of the letter of referral which instructed the agency to take appropriate administrative action with respect to the claim. The claimant was also notified that he could request review by our Office if he was dissatisfied with the agency's settlement of his claim.

We have not been notified by the agency or the claimant of any issues arising from the disposition of this claim that would warrant our further attention. Therefore, without a written record from the agency or adequate evidence from the claimant, we do not have a basis for settlement of the claim. 4 C.F.R. 31.7 (1979). Accordingly, we decline to take any action regarding this separate claim.



Acting Comptroller General
of the United States

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LAW/AUTHORITY CITATIONS

@06 LAW NAME=(@07 P.L.=; @10 Stat.=; @09 U.S.C.=).		@07 LAW NUMBER=.		
		P.L.	P.L.	P.L.
		P.L.	P.L.	P.L.
		P.L.	P.L.	P.L.
		@08 MISCELLANEOUS AUTHORITIES=.		
		BOB Circular		
		Bureau of the Budget Circular		
		A-7		
		Standardized Government Travel		
		Regulations para. 21(a)		
@01 CODE OF FEDERAL REGULATIONS=.				
4 C.F.R. 31.7	C.F.R.			
C.F.R.	C.F.R.			
C.F.R.	C.F.R.			
C.F.R.	C.F.R.			
C.F.R.	C.F.R.			
@02 DECISIONS OF THE COMPTROLLER GENERAL=.				
32 Comp. Gen. 235	Comp. Gen.	B-	(19)	B-
Comp. Gen.	Comp. Gen.	B-	(19)	B-
Comp. Gen.	Comp. Gen.	B-	(19)	B-
Comp. Gen.	Comp. Gen.	B-	(19)	B-
Comp. Gen.	Comp. Gen.	B-	(19)	B-
@03 EXECUTIVE ORDERS=.				
Executive Order	Executive Order	U.S.C.		U.S.C.
Executive Order	Executive Order	U.S.C.		U.S.C.
@04 FEDERAL PROCUREMENT REGULATIONS=.				
F.P.R.	F.P.R.	U.S.C.		U.S.C.
F.P.R.	F.P.R.	U.S.C.		U.S.C.
@05 FEDERAL REGISTER=.				
Fed. Reg.	Fed. Reg.	Stat.		Stat.
Fed. Reg.	Fed. Reg.	Stat.		Stat.
Fed. Reg.	Fed. Reg.	Stat.		Stat.

Reconsiderations

Per diem allowances

Transportation expense claims

Overtime compensation

Federal employees

Temporary lodging allowances

Temporary duty expense claims

Claims settlement