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B-169235, Apr. 6, 1970

Number: B-169235

Date: 1970-04-06

B-169235, APR. 6, 1970

TO MR. FRANK S. MCDONNELL:

YOUR LETTER OF FEBRUARY 20, 1970, REQUESTS RECONSIDERATION OF OUR SETTLEMENT OF FEBRUARY 10, 1970, WHICH DISALLOWED YOUR CLAIM FOR REIMBURSEMENT OF "NECESSARY OUT OF POCKET" EXPENSES INCURRED BY YOU DURING THE PERIOD FROM MARCH 31 TO APRIL 3, 1969, AS COMMISSIONER, FEDERAL MEDIATION AND CONCILIATION SERVICE.

THE RECORD SHOWS THAT YOU CONDUCTED MEDIATION SESSIONS FROM 10 A.M; MARCH 31 UNTIL 4:30 P.M. ON APRIL 1 AND FROM 1 P.M. APRIL 2 TO 1 A.M. APRIL 3, 1969---SOME 64 HOURS OF CONTINUOUS SESSIONS WITH A 20 1/2 HOU RECESS. THE SESSIONS WERE CONDUCTED IN BOSTON, YOUR OFFICIAL DUTY STATION. THE EXPENSES FOR WHICH YOU CLAIM REIMBURSEMENT INCLUDED $5.50 FOR DINNER ON MARCH 31; $1.10 AT 1 A.M. ON APRIL 1 FOR "SNACK AND COFFEE" PLUS $1.80 FOR BREAKFAST; AND $4.60 FOR DINNER ON APRIL 2.

YOUR ADMINISTRATIVE OFFICE IN ITS LETTER OF DECEMBER 12, 1969, STATES:

"NOT ONLY DOES THE AGENCY RECOMMEND PAYMENT OF THIS CLAIM, BUT SEEKS GUIDANCE AS TO THE MANNER IN WHICH MANY OTHER SIMILAR CLAIMS, PAST AND FUTURE, SHOULD BE DISPOSED OF. IT IS A CHARACTERISTIC OF MEDIATOR'S JOB THAT HE WORKS ENDLESS HOURS, DAY AND NIGHT, PLUS WEEKENDS AND HOLIDAYS, IN SEEKING TO RESOLVE DIFFERENCES BETWEEN LABOR AND MANAGEMENT GROUPS, OFTEN WHEN THE ESTABLISHMENT THEY REPRESENT IS CLOSED BY STRIKING EMPLOYEES. ALTHOUGH HE CONDUCTS THE CONFERENCES AT HIS DUTY STATION, QUITE FREQUENTLY HE CANNOT RETURN TO HIS HOME FOR MEALS AND REST. OBVIOUSLY, THE EXPENSE IS DIRECTLY RELATED TO HIS JOB REQUIREMENTS." WE HAVE HELD THAT THE GOVERNMENT MAY NOT PAY THE SUBSISTENCE EXPENSES OF OR FURNISH FREE FOOD TO CIVILIAN EMPLOYEES IN THE CONDUCT OF REGULAR OFFICIAL DUTIES AT THEIR HEADQUARTERS WITHOUT SPECIFIC AUTHORITY OF LAW EVEN THOUGH THEY MAY BE WORKING UNDER UNUSUAL CONDITIONS. SEE 42 COMP. GEN. 149 (1962). THE DECISION OF OCTOBER 4, 1968, B-165235, REFERRED TO BY YOU INVOLVED EXPENSES OF MEALS AT A TRAINING SESSION AND WOULD NOT BE APPLICABLE TO YOUR CASE.

WE ARE UNABLE TO FIND ANY PROVISION IN THE ORGANIC ACT OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE OR THE 1969 APPROPRIATION ACT FOR THE SERVICE (82 STAT. AT 993) WHICH WOULD AUTHORIZE THE PAYMENT OF EXPENSES SIMILAR TO THOSE HERE INVOLVED. ACCORDINGLY, WE CAN ONLY SUSTAIN THE DISALLOWANCE ACTION AS STATED IN OUR SETTLEMENT OF FEBRUARY 10, 1970.