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B-188985, August 23, 1977

Number: B-188985

Date: 1977-08-23

B-188985, AUGUST 23, 1977

EMPLOYEE STATIONED IN FT. WAYNE, INDIANA, RENTED A HOTEL ROOM AT THE FT. WAYNE AIRPORT DUE TO BLIZZARD CONDITIONS WHICH PREVENTED HIS GOING HOME. CLAIM MUST BE DENIED AS EMPLOYEE MAY NOT RECEIVE PER DIEM OR SUBSISTENCE AT OFFICIAL DUTY STATION, REGARDLESS OF UNUSUAL CIRCUMSTANCES.

DEPARTMENT OF COMMERCE - CLAIM FOR PER DIEM AT OFFICIAL DUTY STATION:

THIS ACTION IS IN RESPONSE TO A REQUEST FOR AN ADVANCE DECISION FROM MR. JOHN HOUSTON, AUTHORIZED CERTIFYING OFFICER, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE, WITH REGARD TO THE PAYMENT OF A TRAVEL VOUCHER FOR MR. JOSEPH C. FOUTS, AN EMPLOYEE OF THE NATIONAL WEATHER SERVICE, FOR TWO NIGHTS ACCOMMODATION AT THE FT. WAYNE AIRPORT HILTON INN.

THE RECORD INDICATES THAT MR. FOUTS WAS OFFICIALLY STATIONED AT FT. WAYNE, AND ROUTINELY COMMUTED FROM HIS HOME TO THE AIRPORT. BLIZZARD CONDITIONS PREVENTED HIS RETURNING HOME ON JANUARY 28, 1977. ALMOST ALL SECONDARY ROADS WERE CLOSED, WITH NORTH-SOUTH MAIN ROADS IN THE COUNTY CLOSED DUE TO DRIFTING SNOW. ALL CITY ROADS WERE SLICK AND HAZARDOUS TO DRIVE ON, WITH SOME CLOSED DUE TO DRIFTING SNOW.

MR. FOUTS HAD GOTTEN HALF WAY HOME WHEN HE DEVELOPED CAR TROUBLE. WRECKER DID NOT COME UNTIL THE NEXT NIGHT, AND AFTER WAITING SIX HOURS FOR IT, MR. FOUTS RETURNED TO THE AIRPORT WHERE HE RENTED THE ROOM LATE IN THE AFTERNOON OF JANUARY 28, 1977. THIS ROOM WAS USED BOTH BY MR. FOUTS AND THE EVENING SHIFT EMPLOYEE, FOR A TOTAL RENTAL CHARGE OF $32.10.

DECISIONS OF THE COMPTROLLER GENERAL HAVE CONSISTENTLY HELD THAT AN EMPLOYEE IS ENTITLED NEITHER TO SUBSISTENCE NOR TO PER DIEM FOR EXPENSES OF THIS NATURE INCURRED AT THE EMPLOYEE'S OFFICIAL DUTY STATION, DESPITE UNUSUAL WORKING CONDITIONS WHICH MAY BE INVOLVED. SEE FEDERAL TRAVEL REGULATIONS (FPMR 101-7) PARA. 1-7.6(A) (MAY 1973) AND B-186090, NOVEMBER 8, 1976 AND CASES CITED THEREIN.

THE RECORD REVEALS THAT MR. FOUTS WAS DIRECTED TO RENT THE ROOM AT THE HILTON INN BY HIS IMMEDIATE SUPERVISOR, WHO HAD NO AUTHORITY TO MAKE SUCH A DECISION. WHILE WE REGRET THAT THE SUPERVISOR MAY HAVE MISDIRECTED MR. FOUTS, IT IS WELL ESTABLISHED THAT THE UNITED STATES GOVERNMENT IS NEITHER BOUND NOR ESTOPPED BY THE UNAUTHORIZED ACTS OF ITS AGENTS. SEE, B-182586, DECEMBER 17, 1974 AND CASES CITED THEREIN.

ACCORDINGLY, THE VOUCHER MAY NOT BE CERTIFIED FOR PAYMENT.