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B-242154, March 28 1991

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CIVILIAN PERSONNEL - Relocation - Temporary quarters - Actual subsistence expenses - Reimbursement - Eligibility

DIGEST

Gary R. Whitfield:

The question in this case is whether Mr. Gary R. Whitfield, an employee of the Department of Veterans Affairs, may be reimbursed additional funds as Temporary Quarters Subsistence Expense (TQSE) to compensate him for a lost security deposit and related collection expenses. /1/ The expenses may not be reimbursed since there is no authority to do so.

Pursuant to a permanent change of station from Amarillo, Texas, to San Francisco, California, in 1988, Mr. Whitfield rented and occupied a single family home as his temporary quarters. In doing so he entered into a lease agreement with a private individual. Mr. Whitfield and his family occupied the home from October 31, 1988, through January 30, 1989, and he was reimbursed TQSE for this period under the provisions of 5 U.S.C. Sec. 5724a(a)(3) (1988).

After vacating the premises, Mr. Whitfield tried unsuccessfully to get his landlord to refund his security deposit ($1,500) and unrefunded rent ($293.51). Mr. Whitfield was forced to go to court in an attempt to collect this debt. Mr. Whitfield was successful in obtaining a judgment against his landlord which entailed additional expenses to him for legal fees ($137) and travel expenses to court ($294.12). However, the landlord subsequently declared bankruptcy, and Mr. Whitfield has not been successful in obtaining payment of the judgment. Mr. Whitfield filed a claim with his agency for additional TQSE in order to reimburse him for his loss. His agency denied the claim on the basis that there was no authority to reimburse him.

We agree with the agency's determination. We have held that the term "security deposit" is distinguishable from a subsistence expense in the nature of rent, and refers to a deposit which protects the lessor against violation of the rental or other provisions of the lease. Therefore, there is no authority for reimbursement of a lost security deposit as TQSE. Alex Kale, 55 Comp.Gen. 779 (1976); B-178343, Dec. 26, 1973.

We are also not aware of any authority to reimburse Mr. Whitfield for his unrefunded rent since it applies to the period after he left temporary quarters. His entitlement to TQSE terminated when he moved out of his temporary quarters

into a permanent residence. Kent N. Rosenlof, 66 Comp.Gen. 701 (1987). Further, reimbursement for litigation costs is specifically prohibited by the Federal Travel Regulation. 41 C.F.R. Sec. 302-6.2(c) (1990); Barbara H. Burr, B-223907, Mar. 9, 1987.

We are not unmindful of the fact that Mr. Whitfield has sustained a loss that he would not have sustained had he not transferred in the interest of the government; however, the loss was caused by his landlord's breach of contract and not through the actions of any one acting on behalf of the federal government. We are not aware of any statutory or regulatory authority for reimbursement under these circumstances. Therefore, Mr. Whitfield's claim for reimbursement in the form of additional TQSE is denied.

/1/ The claim was sent in here by the Deputy Assistant Secretary for Financial Management, Department of Veterans Affairs, Washington, D.C. Reference: 047G4.