Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: James E. McGinley

File: B-261586

Date: November 1, 1995

DIGEST

Employee occupied government-owned quarters from date of arrival in U.S. Virgin Islands in connection with a permanent change of station there. Claim for subsistence expenses for meals and incidentals from date of arrival to date household goods were delivered due to inadequacy of the quarters for preparing meals, failed attempts to remedy the inadequacies, and delay in delivery of household goods is denied. An employee may not be reimbursed temporary quarters subsistence expenses while occupying permanent quarters. Our decisions make no distinction between private residences and government-owned residences for purposes of this rule.

DECISION

The Manager, Financial Services Branch, Federal Aviation Administration (FAA), requests our opinion regarding whether the FAA was correct in denying subsistence expense reimbursements related to a permanent change-of-station move of Mr. James E. McGinley.

BACKGROUND

Mr. James E. McGinley was transferred from Dallas, Georgia, to St. Croix, U.S. Virgin Islands, effective July 26, 1994. Mr. McGinley was accompanied by his spouse. Upon arrival in St. Croix, Mr. McGinley was assigned and occupied government housing. It is the practice of the FAA to place new employees immediately into permanent government-owned housing upon their arrival in St. Croix. For this reason, his travel order states that subsistence expense authority was not applicable.

Mr. McGinley filed a grievance on September 14, 1994, requesting return of the rents already collected, additional rents not be collected, and meals and incidental expense be paid until the housing was brought up to standards and household

goods were delivered. On September 20, 1994, Mr. McGinley submitted a claim for meals from his arrival date to the date of household goods delivery. Specifically, his claim is for the period July 26 through September 20, 1994, totaling $2,174.50 for meals while occupying the government-owned quarters. He contends that because the housing unit was not furnished with adequate kitchen utensils and because his household goods were not delivered until September 20, 1994, he was required to eat meals at local restaurants. He says that attempts were made with the management of the quarters to remedy the inadequacies but to no avail.

On October 3, 1994, Mr. McGinley's manager sent Mr. McGinley's claim to the Supervisor, Accounting and Disbursement Section, stating that per diem to cover meals is authorized for Mr. McGinley and his wife from July 26 to September 18, 1994, since Mr. McGinley was unable to prepare meals in the apartment.[1] The claim was not processed, but was returned on November 30, 1994, with an explanation that subsistence could not be allowed for any time period when occupancy of permanent quarters occurred. On December 27, 1994, Mr. McGinley's manager returned the claim and asked for reconsideration due to the inadequacy of the permanent quarters Mr. McGinley occupied. He specifically requested that if favorable consideration was not granted that the claim be forwarded to our Office for a decision. Again on February 22, 1995, the Supervisor, Travel and Transportation Section, notified the manager that, based on previous rulings of our Office, his reasons for not reimbursing Mr. McGinley had not changed. On May 30, 1995, the Financial Services Branch requested our opinion.

ANALYSIS AND CONCLUSION

Our Office has consistently held that an employee may not be reimbursed temporary quarters subsistence expenses during the period he occupies the residence in which he intends to remain, irrespective of the absence of his household goods which arrive at this new residence at a later date. See, Robert N. Havens, B-194837, Aug. 8, 1979. In Steven L. Chancey, B-199958, Apr. 22, 1981, we held that a temporary quarters allowance is not payable when the employee and his or her family occupy a permanent residence while unfurnished, awaiting the arrival of household goods, and eating their meals in restaurants. There is no distinction made in our decisions between private residences and government-owned residences.

In the present case, we are asked to determine if Mr. McGinley can be reimbursed subsistence expenses for meals while occupying government-owned lodging which

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[1]The manager also acknowledges that FAA funds were authorized to purchase locally the necessary items for the quarters after Mr. McGinley's household goods arrived.

was to be his permanent residence from the time of his move to St. Croix. We recognize that the government-owned quarters were unfurnished and the kitchen inadequately equipped during the period of Mr. McGinley's claim. However, as stated above, subsistence expenses may not be paid once an employee occupies permanent quarters at his new duty station. There is no applicable exception to the rule. Since Mr. McGinley did move into his permanent quarters immediately upon his arrival, his claim for subsistence expenses must be denied.

/s/Seymour Efros
for Robert P. Murphy
General Counsel