

**Board of Contract Appeals**  
General Services Administration  
Washington, D.C. 20405

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April 24, 2003

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GSBCA 16032-RELO

In the Matter of RANDALL O. PEAUGH

Randall O. Peaugh, Caledonia, MS, Claimant.

Cynthia R. Blevins, Acting Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

**DeGRAFF**, Board Judge.

The agency's finance center decided not to reimburse claimant for subsistence expenses he incurred after his first sixty days in temporary quarters, even though the agency's authorizing official determined that claimant's circumstances made it necessary for him to remain in temporary quarters for more than sixty days. Because the authorizing official's decision was not arbitrary, capricious, or contrary to law, the agency should reimburse claimant for the allowable amounts he spent during his authorized stay in temporary quarters.

Background

Randall O. Peaugh is employed by the United States Army Corps of Engineers. In April 2002, the Corps transferred Mr. Peaugh from a permanent duty station in Kentucky to a new permanent duty station in Mississippi. In connection with the transfer, the Corps issued travel orders that said the Corps would arrange to ship Mr. Peaugh's household goods to his new duty station and would reimburse Mr. Peaugh for sixty days of temporary quarters subsistence expenses (TQSE). Mr. Peaugh, his wife, and his daughter occupied temporary quarters from April 21 through June 19, 2002, and the Corps reimbursed him for his TQSE during this time.

The movers delivered Mr. Peaugh's household goods to his permanent quarters at his new duty station on June 19. During the move, a mattress set was soiled and a waterbed liner was punctured. When Mr. Peaugh asked his supervisor whether he could be reimbursed for any additional days in temporary quarters due to the problems with the beds, his supervisor referred him to the operations officer for the area office. The operations officer told Mr. Peaugh that he could have some added days in temporary quarters because of the damage

to the beds. The operations officer, however, does not have complete authority to extend an employee's TQSE period. If the operations officer believes an employee's request for additional days in temporary quarters has merit, he will send the justification for an extension and any supporting documentation to the district's transportation office for review, and the transportation office will decide whether to authorize an extension. On June 21, the transportation office amended Mr. Peaugh's travel orders to extend his TQSE period to ninety days.

Mr. Peaugh and his family continued to occupy temporary quarters for an additional seventeen days after June 19, and then moved into their permanent quarters. On August 1, Mr. Peaugh asked to be reimbursed \$2159.63 for the cost of meals, lodging, and laundry and dry cleaning during his final seventeen days in temporary quarters. The Corps did not reimburse Mr. Peaugh for his TQSE for these days because, the Corps' finance center said, Mr. Peaugh did not have an acceptable reason for continuing to occupy temporary quarters after his household goods were delivered to his permanent quarters. Mr. Peaugh asks us to review the finance center's decision.

### Discussion

When an agency transfers an employee in the interest of the Government from one official duty station to another for permanent duty, the agency may reimburse the employee for TQSE for up to sixty days. The agency may extend the reimbursement period for up to an additional sixty days if it determines there is a compelling reason for the employee to continue to occupy temporary quarters. 5 U.S.C. § 5724a(c)(1), (2) (2000). This statutory provision is implemented by the Federal Travel Regulation (FTR), which applies to all federal civilian employees, and by the Joint Travel Regulations (JTR), which supplement the FTR for civilian employees of the Department of Defense.

Both the FTR and the JTR in effect when Mr. Peaugh reported to his new duty station explain that the purpose of the TQSE allowance is to reimburse an employee when it is "necessary to occupy temporary quarters." 41 CFR 302-6.3 (2002); JTR C13210-A. Also, both the FTR and the JTR explain that a "compelling reason" warranting an extension of the initial sixty-day TQSE period is an event beyond the relocating employee's control and acceptable to the agency. Examples of compelling reasons include, but are not limited to, situations in which delivery of the employee's household goods to the new permanent residence is delayed, the employee cannot occupy permanent quarters because of unanticipated problems, or the employee cannot locate a permanent residence adequate for the employee's family's needs due to housing conditions at the new official station. 41 CFR 302-6.105; JTR C13210-B.

Both the General Accounting Office, which resolved relocation claims until mid-1996, and this Board, which now resolves such claims, have recognized that the unavailability of all or essential items of an employee's household goods at the employee's new permanent quarters can make it necessary for the employee to remain in temporary quarters. These decisions are consistent with the "compelling reason" standard set out in the statute, as explained in the regulations. Floyd S. Wiginton, GSBCA 15583-RELO, 01-2 BCA ¶ 31,605 (employee's furniture had not been delivered due to necessary renovations); Ben L. Zane, B-194159 (Oct. 30, 1979) (employee's furniture had not been delivered); Irving G. Warnasch,

B-193885 (June 8, 1979) (employee's family did not have essential furniture, such as beds); see also Thomas R. Montgomery, GSBCA 14888-RELO, 99-2 BCA ¶ 30,427 (when most household goods were packed at old residence and family slept on floor in sleeping bags, residence was not suitable for permanent occupancy); Gordon D. Giffin, GSBCA 14425-RELO, 98-2 BCA ¶ 30,100 (when most household goods had been packed at old residence, residence was not suitable for permanent occupancy).

An authorizing official has considerable discretion to determine what constitutes a "compelling reason" and whether to extend an employee's TQSE period. We will not overturn an agency's determination to approve or to deny an extension unless we find the determination was arbitrary, capricious, or contrary to law. Scott E. English, GSBCA 15650-RELO, 02-1 BCA ¶ 31,821. Here, the appropriate authorizing official determined that Mr. Peaugh's circumstances warranted extending his TQSE period. Mr. Peaugh and his family were without their beds, and the authorizing official apparently considered such items to be essential to an employee's permanent occupancy of a residence.

Regardless of the views of the finance office in Tennessee, nothing in the record suggests that the authorizing official's decision to extend Mr. Peaugh's TQSE period was arbitrary, capricious, or contrary to law. The authorizing official's decision is consistent with the statute, regulations, and precedent. Thus, the extension was properly granted and the

Corps should reimburse Mr. Peaugh for the allowable amounts he spent during his final seventeen days in temporary quarters.

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MARTHA H. DeGRAFF  
Board Judge