

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

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September 5, 2003

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GSBCA 16106-RELO

In the Matter of JEFFREY DEWEY

Jeffrey Dewey, Port Royal, SC, Claimant.

Judy Hughes, Travel Pay Services, Systems and Procedures, Defense Finance and Accounting Service, Columbus, OH, appearing for Department of Defense.

**GOODMAN**, Board Judge.

Claimant, Jeffrey Dewey, is a civilian employee of the Department of Defense. He has requested that this Board review the agency's decision to deny reimbursement of costs incurred during a permanent change of station (PCS) move.

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Factual Background

In May 2002, claimant exercised his return rights to his former duty station in Parris Island, South Carolina, following an assignment in Okinawa, Japan. His travel orders authorized temporary quarters subsistence expenses (TQSE) for sixty days. Prior to departing Okinawa, claimant alleges that he contacted agency personnel for assistance with his TQSE. According to claimant, the agency advised him that if he occupied the home that he owned in the Parris Island area he could be reimbursed for meals and other expenses while there, since he did not have his household goods or other amenities to prepare meals.

Claimant states that he relied on the advice he was given. He arrived with his wife and son and slept on the floor. His household goods (HHG) did not arrive until mid-July. He attempted to cook in the house several times but ultimately went out for meals. He submitted a claim for reimbursement of meal expenses, but the claim was denied by the agency.

The agency states as follows:

[T]he Joint Travel Regulations, Chapter 13, par. C13205-B3, states factors that need to be considered before authorizing TQSE, one of which is that the quarters occupied must be a temporary place of residence. Further, par.

C13205-C3, states that temporary quarters occupancy ends when the employee occupies permanent quarters. In this case, the employee's eligibility to receive TQSE ended when he began to occupy the house he owned in South Carolina. The employee could have delayed moving into the home until his household goods were delivered, and in the interim, occupied other quarters that were, in fact, temporary. Admittedly, this would have cost the government more money than what Mr. Dewey did, however, that does not change the fact that Mr. Dewey was occupying quarters that were not temporary. . . . The fact that Mr. Dewey was misinformed in this instance, however, does not provide a basis for payment.

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### Discussion

Claimant seeks TQSE while he was living in his own residence, which he had previously purchased at his return duty station. He requests reimbursement for meals and other expenses which he incurred before his HHG arrived.

As the agency emphasizes, the Joint Travel Regulations (JTR) in effect on the date of claimant's move clearly state that TQSE is only paid when the claimant occupies a "temporary place of residence." JTR C13205-B.3. Temporary quarters occupancy ends when the employee or any dependent occupies permanent quarters or when the authorized period of time expires, whichever occurs first. JTR C13205-C.3. Even though claimant had no HHG when he arrived, there is no question that he intended the residence to be his permanent residence, and his entitlement to TQSE ended upon occupancy.

There have been limited instances in which this Board has deemed reimbursement of meal expenses to be allowable when an employee has arrived at his permanent residence and there has been a slight delay in the arrival of HHG. Under such circumstances, the employee had not intended to inhabit his residence without his HHG, and promptly moved out after contacting his travel office. Gerald Taylor, GSBCA 15251-RELO, 00-2 BCA ¶ 31,016. Similarly, we have held that when an employee stays in his old residence, prior to moving to a new duty station but after household goods have been packed for shipment, the residence has been constructively vacated and therefore constitutes temporary quarters for the purpose of eligibility for TQSE. Thomas R. Montgomery, GSBCA 14888-RELO, 99-2 BCA ¶ 30,427.

The instant case is different from each of these situations, however. Claimant and his family remained in the house through the period allotted for TQSE when the permanent quarters were less than comfortable. Under such circumstances, we have held that this is indicative of an intent to enter into permanent occupancy, thus terminating eligibility for TQSE. Shane C. Jones, GSBCA 15462-RELO, 01-1 BCA ¶ 31,405.

Claimant alleges he was advised that he would be reimbursed for expenses of meals while he was occupying his residence. This advice was erroneous, as his circumstances did not entitle him to reimbursement. The erroneous advice he received does not create entitlement where none exists. Aman B. Kay, GSBCA 15543-RELO, 01-2 BCA ¶ 31,508.

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### Decision

The claim is denied.

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ALLAN H. GOODMAN  
Board Judge