

DATE: January 12, 1998

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In Re:

[Redacted]

Claimant

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Claims Case No. 97110304

## CLAIMS APPEALS BOARD DECISION

### DIGEST

A member was incorrectly advised that he was entitled to full Temporary Lodging Allowance (TLA) and would be completely reimbursed for the commercial quarters he occupied. Because he was without dependents, he was entitled to only 65 percent of the full TLA rate. The TLA he received was therefore less than the amount he spent for the commercial quarters. The member cannot be paid TLA in excess of the amount allowed by the Joint Federal Travel Regulations. This information does not provide a basis for payment in excess of a member's legal entitlement, because the government is not bound by the erroneous actions of its officers, agents, or employees.

### DECISION

We have been asked to render a decision regarding the claim of an Air Force member for additional Temporary Lodging Allowance (TLA).<sup>(1)</sup> Under Public Law No. 104-316, October 19, 1996, section 3702 of title 31 of the United States Code, which provides for the settlement of claims against the United States, was amended to provide that the Secretary of Defense shall settle claims involving uniformed service members' pay and allowances, including travel allowances. The Secretary further delegated that authority to this Office.

#### Background

The member arrived at his new duty station on June 4, 1997. Since no transient quarters were available, he obtained commercial quarters which cost \$120.96 per night. He states that he was advised that the housing portion of the Temporary Lodging Allowance (TLA) to which he was entitled was \$147 per day and that he would therefore be completely reimbursed for the commercial quarters. He remained in the commercial quarters until June 25. When he received the TLA, he learned that because he had no dependents his TLA entitlement was only 65 percent of \$147 for lodging. Finance personnel calculated his TLA entitlement as \$3,044.58 and paid him that amount. He states that his actual expenses were \$3,578.19, and he claims the \$533.61 by which his expenses exceeded the TLA he received. He bases his claim on the fact that he was misinformed as to his entitlement by Air Force personnel.

#### Discussion

A member's entitlement to pay and allowances is governed by statutes and regulations, and this Office must decide claims based on the relevant statutes and regulations. See DOHA Claims Case No. 96123013 (June 2, 1997). Payment of TLA is governed by 37 U.S.C. § 405 and volume 1 of the Joint Federal Travel Regulations (JFTR), chapter 9, part C.<sup>(2)</sup> Paragraph 9207-E of 1 JFTR states that a member traveling without dependents is entitled to 65 percent of the full TLA rate.

According to the record, the member does not have dependents and therefore was properly paid 65 percent of the full TLA rate. It appears that he was misinformed as to the amount of TLA to which he was entitled. While it is unfortunate that he received incorrect information, it is a rule of long standing that the government is not liable for incorrect information given by its officers, agents, or employees, and such misinformation cannot provide a basis for payment in excess of legal entitlements. See DOHA Claims Case No. 97041009 (July 30, 1997); and Petty Officer John R.

Blaylock, USN, 60 Comp. Gen. 257 (1981).

### **Conclusion**

The member's claim is denied.

\_/s/ \_\_\_\_\_

Michael D. Hipple

Chairman, Claims Appeals Board

\_/s/ \_\_\_\_\_

Christine M. Kopocis

Member, Claims Appeals Board

\_/s/ \_\_\_\_\_

Jean E. Smallin

Member, Claims Appeals Board

1. The Claims Appeals Board has decided to render a decision on this matter for administrative reasons.
2. As implementing regulations, the JFTR have the force of law.