

SUBSISTENCE

1. Per Diem.  
Per Diem (Foreign Nationals).
2. Temporary Duty.

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CPL

5 June 1950

Legal Staff

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Claim for Per Diem - [REDACTED]

1. The memorandum of 18 May 1950 from Chief, FDZ, regarding subject claim, has been referred to this office for consideration. The memorandum is in response to questions raised in our memorandum of 27 April 1950.

2. As we pointed out before, an allowance for per diem cannot be made to take effect retroactively. However, there is no objection to perfecting the records to reflect an established administrative intent to grant per diem at the time for which it is now claimed. S.O.P.G. No. 6/8, dated 5 February 1948, indicates in paragraph 2 that OSO employees will be considered in a travel status when they are new appointees employed for overseas service and required to report to Washington for temporary duty for processing and training prior to dispatch abroad. If these facts are established, (i.e., (1) recruitment for overseas duty, and (2) presence in Washington for processing and training) the grant of per diem for the initial 30 days of such temporary duty is automatic upon presentation and processing of the proper form. For entitlement to any additional per diem, the employee must prove hardship, and the ADSO must give his personal approval. The same directive states in paragraph 6 that "individuals on temporary duty in Washington will be advised by the Personnel Division, OSO, of their eligibility for per diem."

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3. The reply from the Chief, FDZ, has established (1) that Mr. [REDACTED] was actually hired for overseas service, and that (2) while no travel orders were issued, he was considered in a travel status. It states further that "there was no administrative intent to deny per diem." The Procedure Guide is clear evidence of the intent to the extent of an automatic grant of 30 days per diem, provided the claim is reasonable. From the record as it now stands, since Mr. [REDACTED] was not notified of his rights, per diem payment could be properly made for the initial period of 30 days commencing 26 April 1949, but an allowance for additional per diem over and beyond the first 30 days would depend upon evidence that the ADSO intended to grant such additional per diem in this case at the time. This would require an affirmative determination rather than a mere lack of "administrative intent to deny per diem." The allowance would, of course, be dependent upon the showing of hardship related to expenses actually incurred in Washington and would be restricted to appropriate periods ending 15 December 1949, from which time no further

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nurdship expense appears to have been incurred. These points can be resolved by your office on advice of the appropriate records or superiors.

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cc: Subject  
Chrono  
Legal Decisions

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