

Moving Expense of Employees - CRA Officer v CRA

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Moving Expenses of Employees - What is Deductible for Income Tax Purposes?

Sirivar v The Queen, [2014 TCC 24](#)

At issue was whether paragraph 62(3)(c) which limited deductions for costs of meals and lodging to 15 days worth works to limit the deduction of lodging expenses that are properly moving expenses.

The TCC held that the 15 day limit only applies to room and board and is intended to extend deduction to expenses not properly "moving expenses" and not to limit proper moving expense deductions.

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FACTS

A CRA officer moved from Ottawa to Toronto to take up a new position with the CRA. He spent one week in a hotel, and then rented a room in a private home, postponing his purchase of a home in Toronto because for 20 weeks after the move he was required to work on large cases back in Ottawa (but was reimbursed only for 8 weeks). There was also uncertainty which CRA office he would report to in Toronto. He made claims for the room rental in Toronto, 9 trips to Ottawa, Ottawa home ownership expenses while that home was vacant, other travel expenses, and storage and moving expenses.

The CRA denied the all or part of the amounts claimed.

ANALYSIS

The Court began by reviewing [Sections 62](#) of the [Income Tax Act](#), and the definition of "eligible relocation" in subsection 248(1) of the ITA.

The court then referred to the decision in *Storrow v. The Queen*, [1979] 1 F.C. 595, dealing with the interpretation of 62(3), where it was said that moving expenses are "the ordinary out-of-pocket expenses incurred by a taxpayer in the course of physically changing his residence" and does NOT include (except as expressly included in subsection 62(3)) increased cost of a new residence over the old one, cost of installing household items from the old home in the new one, cost of refitting household items in the old residences, or outlays costs associated with the acquisition of the new residence. "Only outlays incurred to effect the physical transfer of the

taxpayer, his household, and their belongings to the new residence are deductible".

The court then referred to the FCA decision in [A.G. of Canada v. Séguin](#), 97 DTC 5457, moving expenses don't include "accessory damages that are unrelated to the actual move to and resettlement in the new residence", such as interest expenses on loans not pertaining to the physical move of the taxpayer.

Lodging expense deduction are limited to a period of 15 days by paragraph 62(3)(c) - refers to cost of meals and lodging for temporary accommodations - and is meant to capture things not otherwise considered to be "moving expenses". The TCC distinguished *Christian v. The Queen*, [2010 TCC 458](#), and said that there is no intention by parliament to restrict lodging expenses property part of moving expenses, but only to allow deduction of "room and board". Where the conditions of employment prolong the completion of an eligible relocation - in this case, because a permanent home could not be found until the exact workplace was identified by the employer - the taxpayer is not to be penalized for accommodating the needs of his employer.

The TCC allowed the expenses for lodging for the hotel and the room in a private residence but did not allow the other deductions.

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