

095375

**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

50514

FILE:

DATE: February 5, 1975

MATTER OF: **B-181415**

DIGEST:

**Ellis M. Harshowitz - Relocation expenses incident  
to transfer of official station**

Employee of the Drug Enforcement Administration, who transferred from Philadelphia to New York City effective October 29, 1972, is entitled to reimbursement of real estate transaction expenses incurred in connection with purchase of residence in Philadelphia on June 26, 1973, under Federal Travel Regulations 2-1.4 if the employee regularly commuted to and from his new job from such residence since the residence would then be deemed to be his new official station or post of duty for purpose of residence expense entitlements.

This matter concerns a request for determination by our Office as to whether a reclaim of \$1,054.75 for real estate transaction expenses associated with the purchase of a residence incident to a transfer of station is properly payable under the circumstances stated below.

Effective October 29, 1972, Mr. Ellis M. Harshowitz, an employee of the Drug Enforcement Administration (DEA), Department of Justice, was transferred from Philadelphia, Pennsylvania, to New York, New York. At the time of his transfer Mr. Harshowitz resided in an apartment in the city of Philadelphia. After his transfer, his permanent residence remained in Philadelphia. On June 26, 1973, Mr. Harshowitz purchased a residence at a different location within the city of Philadelphia.

Mr. Harshowitz claimed \$1,054.75 as reimbursement for expenses relating to the acquisition of his new Philadelphia residence. He also claimed an additional \$300 as reimbursement for expenses in moving household goods from his former Philadelphia apartment to his new residence. In connection with these claims, Mr. Harshowitz stated that his reason for purchasing a home in Philadelphia was a direct result of the extreme real estate price differential between New York and Philadelphia. Prices ranged from 30 to 50 percent higher in the New York area. He also stated that his new Philadelphia residence was 15 miles from his former apartment in that city and that the move reduced the overall distance from his residence to his post of duty in New York from 105 to 90 miles and the driving time from 2 hours to 1 1/2 hours.

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When Mr. Hershowitz submitted his original claim for reimbursement of relocation expenses the \$1,054.75 claim relating to real estate transaction expenses was disallowed by DEA on the basis of a May 8, 1973 memorandum by that agency's Controller. The DEA Controller concluded that this claim was not cognizable under the applicable regulation--section 4.1 of Office of Management and Budget Circular No. A-56--since Mr. Hershowitz had not sold a residence at his old official station and had not purchased a residence at his new official station. In his May 8, 1973 memorandum, the Controller also concluded that Mr. Hershowitz did qualify for reimbursement of expenses for the movement of his household goods under section 6.2d of Circular No. A-56. However, approval of Mr. Hershowitz's \$300 claim for reimbursement of the expenses of moving his household goods was suspended pending submission of additional information. Additional documentation was subsequently provided by Mr. Hershowitz and he has been reimbursed the costs incurred for the transportation of his household goods. Mr. Hershowitz requested reconsideration of the disallowance of the \$1,054.75 items on the grounds that no regulations existed stating that a residence must be located within reasonable commuting distance to his new duty station and it does not seem logical that such items should be disallowed when other change of station expenses were allowed.

The statutory regulations in Circular No. A-56 implementing the various laws regarding the reimbursement of relocation expenses of transferred employees was superseded by the Federal Travel Regulations (FTR 101-7 (May 1973)). Inasmuch as the claim is for expenses incurred after May 1, 1973, we shall cite pertinent provisions of the Federal Travel Regulations (FTR) instead of those of Circular No. A-56. However, we point out that the provisions applicable in this case are substantially the same as those in the Circular.

Regarding the allowance for expenses incurred in connection with residence transactions incident to an employee's transfer of station, the Federal Travel Regulations provide in pertinent part as follows:

"2-6.1. Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence

at his old official station, for purchase (including construction) of one dwelling at his new official station, or for the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station; Provided, That:

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"b. Location and type of residence. The residence or dwelling is the residence as described in 2-1.4i, which may be a mobile home and/or the lot on which such mobile home is located or will be located."

Paragraph 2-1.4i provides as follows:

"i. Official station or post of duty. The building or other place where the officer or employee regularly reports for duty. (For eligibility for change of station allowances, see 2-1.3 and 2-1.5b.) With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official." (Emphasis added.)

We have held that reimbursement of expenses relating to acquisition of a new residence by a transferred employee is not dependent upon his sale of a former residence at the same time. 47 Comp. Gen. 93 (1967). Accordingly, the fact that Mr. Hershowitz did not sell a residence does not affect his eligibility for reimbursement in connection with a residence purchase. In order for the employee to be entitled to reimbursement of expenses incident to the purchase

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of a residence, the new residence must be located at the employee's new "official station" within the meaning of that term in the Federal Travel Regulations. The FTR regulations, paragraph 2-1.41, quoted supra, do not require that the new residence be geographically located in the same city to which the employee was transferred as long as he commutes to work from such residence (and vice versa) on a regular basis. (Under some circumstances--e.g., when the employee has been transferred to a remote area where adequate housing is not available--even the commuting requirement may be modified. This is not applicable in this situation since New York City can hardly be regarded as "a remote area.")

In the instant case Mr. Hershowitz states that the residence that he purchased was closer to his new official station than his former residence and that the commuting time from the new residence to his new official station was one half hour less than it was from his former residence. He does not specifically state nor is there conclusive evidence in the file that he commuted regularly from the residence he purchased in Philadelphia to his official station in New York. If he can submit additional evidence which satisfies the DEA that he did in fact commute regularly between his residence and his station in New York, he is entitled to reimbursement for the real estate expenses incurred, if otherwise proper.

In view of the language in paragraph 2-8.2d of the FTR which permits reimbursement for the costs of transportation of household goods regardless of whether the point of destination of some or all of the goods is the new official station or some other point selected by the employee, we concur with the DEA Controller's determination that Mr. Hershowitz could be reimbursed for the transportation costs incurred by him for the movement of his household goods. However, this concurrence does not enlarge Mr. Hershowitz's entitlement with respect to expenses incurred in the purchase of his residence since paragraph 2-8.2d does not apply to real estate transactions. He must still establish that the residence purchased was at his new duty station under paragraph 2-1.41 because he commutes to and from such residence regularly.

**R.F. KELLER**

**Deputy** Comptroller General  
of the United States