

## DECISION



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

FILE: B-187289

DATE: November 2, 1976

MATTER OF: Dr. Thomas W. Hill - House Purchase  
Expenses

**DIGEST:** Employee was transferred from Holloman AFB, New Mexico, to Ramstein AFB, West Germany, with return rights back to Holloman. Employee's old function at Holloman was subsequently transferred to Kirtland AFB, Albuquerque, New Mexico. When employee later exercised return rights he was accordingly transferred to Kirtland. Employee may not be reimbursed house purchase expenses on transfer from Ramstein to Kirtland since regulations require both old and new duty stations be located within U. S., its territories and possessions, District of Columbia, Puerto Rico, or the Canal Zone. The actual transfer is to be considered in applying the above limitation, not what could have occurred at some earlier time.

This matter concerns a request for reconsideration of Settlement Certificate Z-2578856, February 20, 1976, issued by our Claims Division. The certificate disallowed the claim for house purchase expenses of Dr. Thomas W. Hill, an employee of the Department of the Air Force.

The record shows that Dr. Hill was authorized permanent change-of-station travel from Ramstein AFB, Germany, to Kirtland AFB, Albuquerque, New Mexico, by Travel Order No. AC-47, dated June 4, 1973. Incident to this transfer Dr. Hill submitted a claim for the reimbursement of expenses of \$1,006.96 incurred when he purchased a residence at his new official duty station. Dr. Hill's claim was disallowed on the basis that section 2-6.1 of the Federal Travel Regulations (Federal Property Management Regulation 101-7, effective May 1, 1973) did not allow reimbursement for house purchase expenses in such a circumstance. Section 2-6.1 states in pertinent part:

"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

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residence at his old official station, for purchase (including construction) of one dwelling at his new official station \* \* \* Provided, That:

"a. \* \* \* A permanent change of station is authorized or approved and the old and new official stations are located within the 50 states, the the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the Canal Zone\* \* \*."

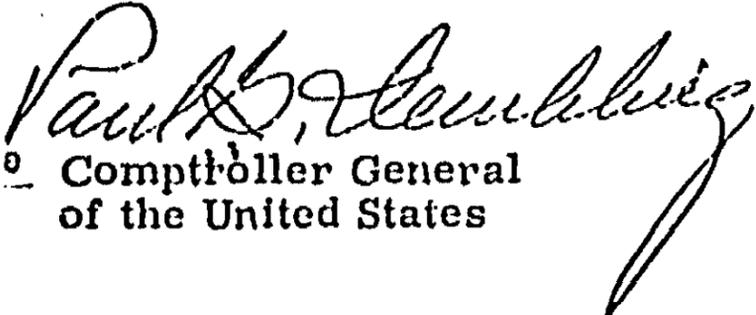
Dr. Hill states in support of his claim that prior to his overseas tour, he occupied a position at Holloman AFB, New Mexico, and upon his transfer to Ramstein AFB he was guaranteed return rights to his position at Holloman AFB. On May 31, 1971, however, the function at Holloman AFB was transferred to Kirtland AFB, New Mexico. Therefore, when Dr. Hill exercised his return rights he was transferred to Kirtland AFB.

Dr. Hill contends that if he had returned to Holloman AFB from Ramstein prior to the transfer of function from Holloman AFB to Kirtland AFB, he would have been entitled to reimbursement of the real estate expenses incurred in a subsequent move to Kirtland AFB. Accordingly, Dr. Hill believes that since he originally had reemployment rights to a position at Holloman AFB, his return to work in the United States should be construed as a return to Holloman AFB with a subsequent transfer to Kirtland AFB. In this manner Dr. Hill believes the regulatory exclusion stated in section 2-6.1, supra, is inapplicable to his case.

In our decision B-169490, October 9, 1975, involving similar circumstances to those presented here, we held that the fact an employee on duty overseas had return rights to his old official station in the United States did not make his return from a foreign country to a different official station in the United States such as to qualify him for house purchase expenses under section 2-6.1, supra. Rather, we held that the actual transfer, in Dr. Hill's case from Ramstein AFB to Kirtland AFB, is to be considered in deciding whether the exclusion in section 2-6.1, supra, applies, and a transfer which could have occurred at some earlier time but which did not occur may not be construed as equivalent to the transfer which did in fact take place.

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Since Dr. Hill returned directly to Kirtland AFB from Ramstein AFB, a place outside the United States, he is not entitled to the house purchase expenses which he claimed. Our Claims Division's denial of Dr. Hill's claim is sustained.

  
For the Comptroller General  
of the United States