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E. Grammer  
Civ. Serv.

**DECISION**



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

**FILE:** B-187088

**DATE:** February 3, 1977

**MATTER OF:** G. F. McBride - Real Estate Expenses

- DIGEST:**
1. Bureau of Prisons employee claims costs incident to sale of house upon transfer from Washington, D.C., to Alderson, W. Va. Claim is denied because sale of home was not incident to change of official station as required by FTR para. 2-1.5(b) (May 1973). Sale of home was begun and real estate expenses were incurred long before agency first decided upon transfer, and agency made no determination that sale was incident to change of official station. See B-167171, August 8, 1969; B-186763, October 6, 1976.
  2. Claim for costs incident to sale of house upon transfer is denied when employee actually resided in nearby rented quarters at time definite notice of transfer was given because employee does not meet occupancy requirements of FTR para. 2-6.1(d) (May 1973). B-177643, April 9, 1973.

By letter dated July 28, 1976, Mr. Glen E. Pommerening, Assistant Attorney for Administration, Department of Justice, requests an advance decision concerning the claim of Mr. G. F. McBride, an employee of the Bureau of Prisons, for real estate expenses for the sale of his home at his old official station upon his transfer from Washington, D.C., to Alderson, West Virginia.

The record shows that on January 11, 1975, Mr. McBride entered into a sales agreement with Virginia Homeowners, Inc.,

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whereby he paid \$75 as an advance sales commission and agreed to pay \$400 more if any contract for sale of his house was signed by April 11, 1975. On February 5, 1975, Mr. McBride paid a \$55 Veterans Administration appraisal fee. A sales contract was signed in March 1975, but the purchaser reneged. This resulted in Mr. McBride's payment of the \$400 fee on April 30, 1975, and Virginia Homeowners' extension of its services until July 11, 1975.

On May 27, 1975, Mr. McBride signed another contract for the sale of his home. Again the purchaser attempted to renege. On June 25, 1975, Mr. McBride filed suit to enforce the contract. On the advice of his attorney, Mr. McBride resided in nearby rented quarters throughout the litigation.

It was not until February 2, 1976, that a settlement of the lawsuit was reached, whereby the purchasers agreed to complete the purchase upon receipt of certain payments. On February 19, 1976, the closing for the sale of Mr. McBride's home took place.

Meanwhile, on January 20, 1976, while Mr. McBride was residing in rented housing, he received notification from the Bureau of Prisons that he was to be transferred to Alderson, West Virginia. Travel Authorization No. 170-0096 for this transfer was issued on February 2, 1976. There is nothing in the record to indicate that Mr. McBride's transfer was contemplated in January 1975 or at any time before January 1976.

Mr. McBride seeks reimbursement of a total of \$650, representing the \$75 advance sales commission to Virginia Homeowners of January 11, 1975; the \$55 Veterans Administration appraisal fee of February 5, 1975; the \$400 sales commission of April 30, 1975; the \$90 attorney's closing fee of February 19, 1976; and the \$10 state transfer tax of February 19, 1976.

It is clear from the record that Mr. McBride intended to sell his house in January 1975 and that the bulk of his real estate expenses were incurred long before January 1976 when the Bureau of Prisons first determined that he was to be transferred. We have interpreted paragraph 2-1.5(b) of the Federal Travel Regulations (FPMR 101-7) (May 1973) to mean that relocation expenses may be authorized only when the agency determines that

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they are incident to the change of official station. B-186763, October 6, 1976.

Here, the Bureau of Prisons has not made a determination that the sale of Mr. McBride's residence was incident to his change of official station. In fact, the Bureau of Prisons' Certifying Officer stated:

"My refusal to certify this claim for payment is based on the fact the sale was made prior to Mr. McBride being notified of his transfer."

Under these circumstances we cannot say that the requirements of FTR para. 2-1.5(b) (May 1973) have been met. See B-186763, supra.

Moreover, the Federal Travel Regulations authorize Government reimbursement of costs incident to the sale of a transferred employee's home at his old official station only if certain conditions of occupancy are met:

"Occupancy requirements. The dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he was first definitely informed by competent authority of his transfer to the new official station." FTR para. 2-6.1(d) (May 1973).

The term "residence" used above is further defined in paragraph 2-1.4(i) of the FTR (May 1973) as "the residence or other quarters from which the employee regularly commutes to and from work."

In B-177643, April 9, 1973, we reviewed the claim of an Air Force employee who moved out of the residence for which he claimed reimbursement of real estate sales expenses and into rented quarters nearby 7 months before he received official notice of transfer. The sale of his house was closed after he received definite notice of his transfer. In these circumstances we denied the employee's claim on the basis that he failed to meet the occupancy requirements of section 4.1d of the Office of

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Management and Budget Circular No. A-56, now FTR para. 2-6.1(d), supra. We held that because the employee was actually living in rented quarters at his old official station when he was notified of his transfer, he could not claim relocation expenses for the sale of another house at the old station.

Accordingly, the claim may not be allowed.

*R. F. K. 1/10*  
Deputy Comptroller General  
of the United States