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J. Kramer

Div, Pers.

DECISION



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

FILE: 7-191013

DATE: April 25, 1978

**MATTER OF: Gerald W. Frye - Relocation expenses -
2-year time limitation**

**DIGEST: Civilian employee of the Department of
Defense whose settlement date on the sale
of his residence was more than 2 years
after the date of his transfer may not
be reimbursed real estate expenses even
though he had been informed by the admin-
istrative office that the date of the
sales contract, which had been entered
into within the 2-year time limitation
would suffice.**

This is in response to a request submitted by the accounting and finance officer, Defense Logistics Agency, Department of Defense (reference DCRA-FA, Mr. Keller/305/smt), whether a civilian employee, Mr. Gerald W. Frye, is entitled to reimbursement for expenses incurred in connection with the sale of his residence at his old duty station.

Chapter 2 of the Federal Travel Regulations (FTR; (FPMR 101-7) (May 1973), which are issued by the General Services Administration, govern the entitlements of civilian employees of the Federal Government to relocation allowances. Paragraph 2-6.1 provides for reimbursing an employee for the expenses of selling a residence at his old official station and of purchasing a residence at his new station. However, paragraph 2-6.1(e) of the FTR imposes a time limitation on such sales and purchases, as follows:

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his

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designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

Issued pursuant to 5 U.S.C. § 5724a (1970) which contains the authority for reimbursement of real estate expenses, these regulations have the force and effect of law and may not be waived by any department of the Government in an individual case. See B-189898, November 3, 1977. Similar provisions are contained in paragraph C14000-2 of Volume 2, of the Joint Travel Regulations (JTR) relating to reimbursement of relocation allowances of civilian employees of the Department of Defense.

By Travel Order dated September 30, 1975, Mr. Frye was transferred from Orlando, Florida, to Burlington, North Carolina. He reported for duty at his new station on October 19, 1975. Pursuant to FTR paragraph 2-6.1(e), Mr. Frye requested an extension of time to file his claim for expenses incurred in the sale of his residence. On September 29, 1976, his deadline was extended to October 19, 1977. The settlement date occurred on October 21, 1977, 2 days after the time limit had expired.

Mr. Frye alleges that on October 13, 1977, he was advised by the accounting and finance officer, Defense Logistics Agency, that reimbursement of expenses would be appropriate even if the closing occurred after the time limit had expired since an agreement to sell had been signed on October 10, 1977. The FTR and JTR, however, clearly provide that the settlement date on a residential transaction must occur not later than 2 years after the date on which the employee reported for duty at his new station. Agency officials had no authority to grant an exception to that requirement. It is unfortunate that Mr. Frye was misinformed as to the propriety of exceeding the time limit, but it is a well-established rule of law that the Government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees, even though committed in the performance of their official duties. See B-189211, September 8, 1977, 56 Comp. Gen. ____, and cases cited therein.

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Accordingly, the settlement by our Claims Division denying Mr. Frye's claim for reimbursement of real estate expenses is sustained.

Deputy

R. F. K. 114
Comptroller General
of the United States



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

S. Kramer
Civ. Serv.

B-191018

April 26, 1978

The Honorable Lawton Chiles
United States Senator
Federal Building
Lakeland, Florida 33081

Dear Senator Chiles:

Subject: 4 Gerald W. Frye

This refers to your letter of February 15, 1978, to Defense Logistics Agency, concerning the status of Mr. Gerald W. Frye's request for reimbursement of moving expenses incurred as a result of his being transferred from Orlando, Florida, to North Carolina.

Our Office has disallowed Mr. Frye's claim based on paragraph 2-6.1 of the Federal Travel Regulations and the long-standing policy of the courts and of our Office that the Government is neither bound nor estopped by negligent or erroneous acts of its officers, agents, or employees, even though committed in the performance of their official duties. Enclosed herein please find a copy of our decision.

We recognize, however, that in this case the delay beyond 2 years appears to have been directly related to the erroneous advice of agency officials and that, but for the bad advice, Mr. Frye apparently could have rescheduled the settlement date within the time limitation. For that reason, we would not object to private relief legislation in this case.

Sincerely yours,

Comptroller General
of the United States

Deputy

Enclosure