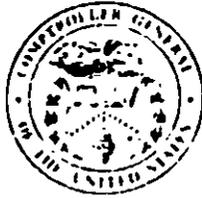


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For A. B. B. Co. Inc.

DECISION



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

FILE: B-190979

DATE: July 7, 1978

MATTER OF: Burrel M. Baxter - Reimbursement for Real Estate Commissions

DIGEST: Claim for reimbursement of real estate commissions incurred incident to the sale of a mobile home has not been adequately documented and may not be certified for payment. Claimant has not submitted a copy of the sales agreement, and has not established that he had title to the home at the time of the transaction which gave rise to this claim. Additionally, the documents which were submitted contain conflicting statements.

This is in response to a request for an advance decision regarding the claim of Mr. Burrel M. Baxter for reimbursement of "real estate commissions" in the amount of \$907.37 incurred in connection with the sale of his mobile home incident to his transfer from Brush, Colorado, to Tracy, California.

Mr. Baxter, an employee of the Bureau of Reclamation, Department of the Interior, purchased a mobile home on February 19, 1976, from C&L Sales and Service in Fort Morgan, Colorado. In July 1977 he was officially transferred to Tracy, California. He had originally intended to transport the mobile home to his new duty station, but discovered that California did not allow mobile homes of the type he owned. He, therefore, made arrangements to sell the home with a representative of C&L Sales and Service, the same company from whom the home had been purchased.

The mobile home was sold and Mr. Baxter submitted a claim for reimbursement of \$907.37 in "real estate commissions." The certifying officer has requested an advance decision, noting that the documents submitted in support of the claim contain conflicting statements, and are not of the usual type.

As a preliminary matter, we note that although this claim arose as a result of a sale of a mobile home, it is nonetheless governed by the provisions in the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), relating to the sale of a residence or dwelling. Under FTR chapter 2, Part 6, claims incident to the sale of a mobile home are generally subject to the same requirements that apply to the sale of a stationary home or residence.

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See 49 Comp. Gen. 15 (1969) and B-175285, July 9, 1973. Accordingly, the issue in this case is limited to whether the documentation presented in support of Mr. Baxter's claim for reimbursement of real estate commissions is sufficient.

The documents submitted by Mr. Baxter are as follows:

1. A travel voucher signed by Mr. Baxter on December 20, 1977, claiming reimbursement for \$907.37 in "real estate commissions" for the sale of his mobile home.

2. A memo from C&L Sales dated August 16, 1977, which reads as follows:

"The sale of your mobile home has been completed. It was most fortunate that the home was able to be sold this quickly. We need you to send us the paid receipt for the taxes for 1977. Please also forward the sales tax check that was payable this year. Thank you for your attention to this matter. We were able to sell the home for \$10,162. The payoff on the home came to \$9,254.63. This left a balance of \$907.37. This was just enough to cover expenses of hauling the home and tearing the home down and resetting the home. If there were more I would consider the sales tax even, but there was not enough to cover that also. Thank you for your attention to this matter."

3. A document entitled "Note, Security Agreement and Disclosure," signed by Mr. Baxter and C&L Sales on February 19, 1976. This document sets forth the financing arrangements made by the Baxters and C&L Sales with the First National Bank at Brush, Colorado. By its terms, the Baxters gave a security interest in the mobile home to C&L Sales and this security interest was then assigned to the First National Bank at Brush. The Baxters, as debtors, warranted good title and agreed to make successive monthly payments to the First National Bank. Upon default of the debtors, the secured party or its assignee, could repossess and sell the mobile home.

4. A copy of an undated memo to Mr. Baxter from C&L Sales. The memo is confusing and apparently written in the heat of anger. It seems to be in response to Mr. Baxter's requests for additional

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documentation to support his claim for reimbursement of the \$907. The C&L representative repeatedly states that their agreement had nothing to do with the Government and he does not understand why Mr. Baxter expects C&L to file anything with the Government. Although C&L asserts it will have no part of Mr. Baxter's attempt to file a claim with the Government, a blank C&L billing form is enclosed with the memo, and Mr. Baxter is advised that he can fill it out in any way he sees fit, and submit it to the Government himself. C&L also asserts that Mr. Baxter had already given up ownership in the mobile home before he left Colorado, and states:

"You signed the title off at the First National in Brush and at that time removed all interest in the home. If I had not assumed your obligation on the home it would have gone as a repossession against you if you had not sold the home or continued to make the payments you had agreed to."

The memo also demands payment for the sales tax, and refers to a statement signed by Mr. Baxter in which Mr. Baxter allegedly agreed to pay the sales tax.

5. The fifth document submitted by Mr. Baxter is a copy of a C&L billing statement dated November 10, 1977, and signed by a C&L representative. It provides as follows:

"We were contacted to sell this home for you Burrell /Baxter/ on the latter days of July 1977. This home was sold by C&L in August of 1977. At that time a statement was sent to you by my office and stated costs involved in this home. The statement was in error as to the breakdown of expenses. Consider this a corrected statement.

| | |
|--------------------------|-----------------|
| Salesman commission..... | \$500.00 |
| C&L commission..... | 407.00 |
| | <u>\$907.00</u> |

Your prompt attention to this matter is appreciated.

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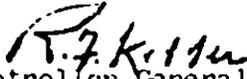
6. The sixth and last document submitted is a signed statement by Mr. Baxter dated December 3, 1977, that he states may be considered to be a sworn statement. The statement purports to explain the "erroneous statements," and correct the resulting "false conclusions."

Mr. Baxter states that he had a consignment sale agreement with C&L and it was not a repossession of the mobile home as implied by C&L. He states that the parties agreed that the sale would be at a 10 percent commission, and 10 percent is the usual commission for selling mobile homes in Colorado. He further states that the only closing costs paid by the buyer in Colorado are sales tax and transfer fees. Finally, Mr. Baxter states that the C&L memo dated August 15, 1977, was in error and the November 10, 1977 memo is correct. According to Mr. Baxter, no moving arrangements were made or discussed relative to Mr. Baxter's part of the transaction.

As noted by the certifying officer, the above-described documents are unusual and sometimes conflicting. There are conflicting statements which first identify the \$907 as a fee for relocating the mobile home after its resale, and then identify that amount as a real estate commission. Further, Mr. Baxter claims he was the seller in the August 1977 transaction, but C&L implies a repossession occurred and that Mr. Baxter no longer had title.

In addition to the conflicting statements in the documents which have been submitted, certain other documents are conspicuously absent. Thus, although Mr. Baxter claims he entered into an agreement to have C&L sell the mobile home, no copy of such an agreement has been submitted. Further, none of the documents submitted identify Mr. Baxter as a principal party or seller in the 1977 resale, and Mr. Baxter has not otherwise established that he had title to the mobile home at the time of that transaction. FTR para. 2-6.1a.

In the absence of such documentation, and in view of the conflicting nature of the documents which have been submitted, we conclude the claim has not been adequately documented. Accordingly, the voucher is returned herewith and may not be certified for payment.


Deputy Comptroller General
of the United States