

8688

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

J. Lantry

PKZ

[Costs of Litigation NOT Reimbursable As Relocation Expense]

should be

FILE: B-191920

DATE: December 26, 1978

1978

MATTER OF: George D. Thomas - Relocation Expenses -
Attorney's Fees - Costs of Litigation

DIGEST: Employee claims reimbursement for attorney's fees incurred incident to his breach of contract to buy house at old duty station. Reimbursement of miscellaneous expenses incident to a transfer of station is permitted only for house which meets definition of "residence." Further, reimbursement of costs of litigation is specifically precluded by regulation.

~~This~~ advance decision is rendered at the request, dated May 9, 1978, of Ms. Marie A. Bell, an authorized certifying officer of the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, as to the propriety of certifying for payment the voucher in favor of Mr. George D. Thomas, an employee of the Bureau, for legal fees incurred in connection with a permanent change of station.

On April 9, 1976, Mr. Thomas entered into a contract to purchase a residence in Stone Mountain, Georgia, with the owner of the residence through the Walter Scott Realty Company. Closing date was set for June 28, 1976. On May 18, 1976, Mr. Thomas was notified of his transfer from Atlanta, Georgia, to Tampa, Florida, effective June 20, 1976. When Mr. Thomas notified the owner of the residence and the Walter Scott Realty Company of his transfer, they brought joint suit against him for breach of contract. Mr. Thomas paid an attorney \$500 to represent him in this suit. He now seeks reimbursement of this fee as a miscellaneous moving expense.

Chapter 2, Part 3 of the Federal Travel Regulations (FTR) (FPMR 101-7) provides a miscellaneous expense allowance to defray the various contingent costs associated with discontinuing a residence at an old duty station and establishing a residence at a new duty station in connection with a permanent change of station. Paragraph 2-1.4i of the FTR describes the residence in connection with which reimbursement of real estate and other expenses is allowed as the quarters from which the employee commutes to and from work. B-189998, March 22, 1978. Thus, the house which Mr. Thomas planned to buy at his old duty station is not a "residence" as defined above. Accordingly,

~~002848~~

DL

B-191920

Mr. Thomas may not be reimbursed under FTR paragraph 2-3.1a for an expense incurred with reference to this house when he was transferred to Florida.

Additionally, FTR paragraph 2-3.1c states that the miscellaneous expenses allowance is not to be used to reimburse costs or expenses incurred by an employee incident to a transfer if those costs or expenses are disallowed elsewhere in the regulations. Paragraph 2-6.2c specifically provides that costs of litigation are not reimbursable.

Accordingly, the voucher returned herewith may not be certified for payment.



Acting Comptroller General
of the United States