

**DECISION**



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

*PLM-II  
A. Riedinger*

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FILE: B-192659

DATE: February 14, 1979

MATTER OF: John S. Treadwell

*[Claim for Reimbursement of Real Estate Expenses Incident to Change of Station]*

DIGEST:

1. An employee of the Federal Government was employed by one agency in a foreign country and was transferred to another agency in United States. He owned a residence at a former duty station in the United States which he sold at the time of that transfer. He also purchased a home at his new duty station. Reimbursement of the selling and purchase expenses is not authorized, since 5 U.S.C. 5724a and Federal Travel Regulations limit entitlement to situations where old and new official stations are within United States, its territories and possessions.
2. An employee of the Federal Government received assurances that he would be reimbursed for the expenses of selling a residence and purchasing another on transfer from an assignment in a foreign country to an assignment in the United States, which assurances are contrary to 5 U.S.C. 5724a and the Federal Travel Regulations, may not be so reimbursed even though he acted in reliance thereon, for in the absence of specific statutory authority to the contrary, the United States is not responsible for erroneous acts of its officers, agents or employees.

This action is in response to a letter dated August 15, 1978, with enclosures, from B. B. Hensley, Authorized Certifying Officer, Department of Energy, requesting an advance decision concerning the entitlement of Mr. John S. Treadwell, an employee of that agency, to be reimbursed for real estate expenses in the amount of \$2,943.29, incident to a permanent change of station.

The file in Mr. Treadwell's case shows that in 1974, while he was a civilian employee with the United States Corps of Engineers in Albuquerque, New Mexico, he received an overseas assignment to Nuernberg, Germany, with reemployment rights in Albuquerque. As a result, he did not sell his residence at that location since he expected to use it on his return to the United States.

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B-192659

While serving in that overseas assignment, he received an informal inquiry in December 1976 from the Energy Research and Development Administration (ERDA), a predecessor agency of the Department of Energy, as to his interest and availability to work for them in the Portsmouth, Ohio area. As part of his consideration of accepting such employment was the question of reimbursement of real estate expenses he would incur from the sale of his home in Albuquerque.

By letter dated April 12, 1977, Mr. Treadwell received an official offer of employment from ERDA. He was advised therein that his travel and transportation expenses and movement of his household goods from New Mexico to Ohio would be borne by ERDA, with the understanding that the Corps of Engineers would bear the cost of his return travel and transportation from overseas. The matter of reimbursement for real estate expenses on the sale of his Albuquerque home was not mentioned.

According to the file, Mr. Treadwell subsequently received verbal assurances from ERDA that since the Corps of Engineers would be returning him to the United States, his move to Ohio thereafter would be treated as an incountry move, which would result in his being entitled to reimbursement for the costs of selling his Albuquerque home.

In July 1977, Form ERDA-182, "Authorization for Change of Official Station" was completed and approved in Mr. Treadwell's case, showing as his then present official duty station, Albuquerque, New Mexico. In August 1977, Mr. Treadwell transferred directly from his official station in Germany with the Corps of Engineers to an official station in Ohio with ERDA. Shortly thereafter he sold his Albuquerque home and purchased a home in Ohio. Mr. Treadwell submitted ERDA Form 150, "Employee Application for Reimbursement of Expenses Incurred Upon Sale or Purchase (or both) of Residence Upon Change of Official Station," covering the expenses of the sale in New Mexico and purchase in Ohio, in which it is also noted that Albuquerque was listed as Mr. Treadwell's old official station.

Both forms were approved by appropriate ERDA officials. Based on that approval, the voucher for real estate expenses was certified and paid. It was subsequently discovered that Mr. Treadwell's old

B-192659

official station as listed was incorrect and the amount paid for these expenses was recovered.

The gist of Mr. Treadwell's claim is that he relied on the verbal assurance of a personnel officer of ERDA that those real estate expenses would be paid and based on that assurance he agreed to accept the position and be transferred directly there rather than be returned to Albuquerque first.

The provisions of law governing these matters are contained in 5 U.S.C. 5724a, of which subsection (a) provides in part:

"(a) Under \* \* \* regulations \* \* \* funds available to an agency for administrative expenses are available for the reimbursement \* \* \* of the following expenses of an employee \* \* \*

\* \* \* \* \*

"(4) Expenses of the sale of the residence \* \* \* of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and the new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone \* \* \*" (Emphasis supplied.)

Regulations issued pursuant to the foregoing are contained in the Federal Travel Regulations (FPMR 101-7, May 1973 as amended) (FTR). Allowances for expenses incurred in connection with residence transactions are presently found in Chapter 2, Part 6 of FTR. Para. 2-6.1 thereof provides that an employee shall be reimbursed for expenses required to be paid by him in connection with the sale of one dwelling at his old official station and for one dwelling at his new official station. For the purpose of this entitlement, subpara. 2-6.1.a. provides:

"a. Transfers covered - agreement required.  
A permanent change of station is authorized or approved and the old and the new official stations are located within

B-192659

the 50 states, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the Canal Zone, and the employee has signed an agreement as required \* \* \*."

Subpara. 2-6.1.d. requires that:

"d. 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."

In connection with the foregoing, subpara. 2-1.4.i. describes official station and residence as being:

"\* \* \* The building or other place where the officer or employee regularly reports for duty. \* \* \* With respect to entitlement under these regulations relating to the residence \* \* \* of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. \* \* \*"

It is clearly evident that the law and regulations governing reimbursement for real estate expenses on relocation relate only to residence moves where the old official station and the new official station are within the United States, its territories and possessions and the residences for which reimbursement is being sought are located at the old and new stations.

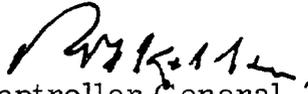
In the present case, while it is true both of the employee's dwellings were in the United States, the one in Albuquerque did not qualify as a residence at his old station. For the purposes of these provisions, his residence at his old station was in Germany, not in Albuquerque. See B-189898, November 3, 1977.

As to Mr. Treadwell's claim that his reliance on the verbal assurances of an ERDA personnel officer served as a basis for his entitlement, in the absence of specific statutory authority, the United States is not responsible for the erroneous acts of its

B-192659

officers, agents, or employees, even though committed in performance of their official duties. See German Bank v. United States, 148 573 (1893); Utah Power & Light Co. v. United States, 243 U.S. 389 (1917) and Montilla v. United States, 457 F. 2d 978 (Ct. Cl. 1972).

Accordingly, Mr. Treadwell's claim for reimbursement for real estate expenses is denied and such monies paid are to be recovered.

  
Deputy Comptroller General  
of the United States