

PLI

DECISION



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

0901

FILE: B-193507

DATE: April 20, 1979

MATTER OF: Samuel I. George ^[Claim for] Real Estate Expenses ^{Incurred Incident} To Transfer of Duty Station Outside United States]

DIGEST: Employee, who was transferred from New Mexico to Nicaragua in 1975 and then from Nicaragua to Colorado in 1977, may not be reimbursed expenses in connection with the 1975 sale of his former New Mexico residence and the purchase of a residence in Colorado in 1977. The statute and regulations require that both old and new duty stations be in the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone.

This decision is issued in response to Mr. Samuel I. George's appeal from Claims Division Settlement Certificate No. Z-2733959, September 26, 1978, denying his claim for reimbursement of real estate expenses incurred incident to two transfers.

In October 1975, Mr. George, an employee of the Department of the Interior, was transferred from Farmington, New Mexico, to Managua, Nicaragua. Incident to that transfer, he sold his Farmington residence and has claimed reimbursement of real estate sale expenses totaling \$2,669.96. On December 20, 1976, Mr. George was transferred from Nicaragua to Denver, Colorado. On February 15, 1977, Mr. George purchased a residence in Lakewood, Colorado. In connection with the purchase, Mr. George has claimed \$569.68, which includes a nonreimbursable loan origination fee in the amount of \$369. [Both claims were disallowed by the Department of the Interior and by our Claims Division because his transfers were to and from a location outside the United States, For this reason, he did not meet one of the statutory and regulatory conditions for reimbursement of real estate sale and purchase expenses; namely, that both the old and new duty stations must be located within the United States or other specified area. ^{+ the employee appealed the decision. Because}

In appealing the Claims Division's disallowance, Mr. George requests waiver of that condition of entitlement in view of the particular circumstances of his case. From a review of the

005039

documentation furnished in support of his claim, it appears that when Mr. George accepted the transfer to Nicaragua he assumed that he would be reimbursed real estate expenses just as he had been reimbursed such expenses in connection with his previous transfer from California to New Mexico. Although the travel orders issued in connection with his transfer to Nicaragua did not authorize reimbursement of real estate sale and purchase expenses, Mr. George apparently feels that he was misled as to the matter of his entitlement to reimbursement. In a March 18, 1977, letter addressed to the Regional Finance Office, he stated:

"In my long contact with the Washington office from my acceptance of their offer in July to September of 1975, when I sold my house, my intention to sell my house was known by them, and they did not inform me or indicate to me in any way that I could lose reimbursement rights on the sale of my house. I found out later that the Washington office was unaware of the practice to reimburse real estate expenses domestically; consequently, my intention to sell my house passed them by as unimportant."

Reimbursement of transfer-related real estate expenses is authorized by 5 U.S.C. § 5724a(a)(4) (1970) which provides, in pertinent part, that:

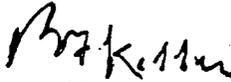
"Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions,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

The requirement regarding the location of the old and the new duty stations is carried over in paragraph 2-6.1a of the Federal Travel Regulations (FPMR 101-7) (May 1973), which was in effect when the settlements on both residences took place.

B-193507

The statute and the regulations provide for reimbursement of real estate expenses only when both the old and the new duty stations are located within the United States or other area listed. 47 Comp. Gen. 93 (1967) and 54 Comp. Gen. 1006 (1975). This requirement applies in situations such as Mr. George's when an employee's tours of duty within the United States are separated by an overseas tour of duty. Matter of David L. Toillion, B-184987, May 28, 1976. In fact, the condition that both the old and new duty station be in the United States or other specified area precludes reimbursement even when, upon transfer overseas, an employee had reemployment rights at his former duty station in the United States where he maintained a residence, but was obliged to relocate his residence upon retransfer from overseas to another location in the United States due to a transfer of function from his first duty station. Matter of Dr. Thomas W. Hill, B-187289, November 2, 1976.

Our decisions are based solely upon the requirements of the law, 5 U.S.C. § 5724a(a)(4), and implementing regulations. Accordingly, the denial of his claim for reimbursement of real estate expenses by our Claims Division is sustained.


Deputy Comptroller General
of the United States