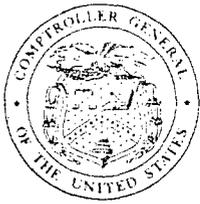


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DECISION

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

FILE: B-195976

DATE: February 8, 1980

MATTER OF: Donald C. Cardelli -
[Request for] Relocation expenses *]*

- DIGEST:
1. An FBI employee stationed in Philadelphia was appointed as a special agent and detailed to Washington, D.C., for 16 weeks' training at FBI Academy, Quantico, Virginia, and upon completion of training assigned to permanent duty in Baltimore. Employee may be reimbursed for sale of residence in Philadelphia upon transfer to Baltimore since employees are entitled to relocation expenses incident to a permanent change of station interrupted by a temporary period of training. Washington, D.C. was a duty station for administrative purposes only during the training period.
 2. Matter of Hughie L. Ratliff, B-192614, March 7, 1979, held that FBI special agent having residence at old permanent duty station before 16 weeks' training at Quantico, Virginia, was entitled to reimbursement for sale of residence incident to permanent change of station. Ratliff applies retroactively since it followed well-established precedent. Therefore, FBI employee who was appointed as special agent and who sold house before Ratliff was decided, is entitled to sales expenses incident to transfer.

The principal issue presented in this case is whether the decision in Matter of Hughie L. Ratliff, B-192614, March 7, 1979, should be applied retroactively or prospectively only.

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The question was presented here upon a request for an advance decision from Mr. D. E. Cox, an authorized certifying officer of the Federal Bureau of Investigation (FBI).

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Donald C. Cardelli had been employed by the FBI in the Philadelphia, Pennsylvania field office since January 3, 1968. On March 13, 1978, he was offered an appointment with the FBI as a special agent. Upon acceptance of the special agent appointment he reported for duty at Washington, D.C., effective March 26, 1978. At that time his headquarters were fixed at Washington, D.C.

After Mr. Cardelli completed the new agents' training course conducted at the FBI Academy, Quantico, Virginia, he was transferred to Baltimore, Maryland. His transfer was effected on July 16, 1978. In connection with his transfer, he sold his residence located in Philadelphia and submitted a claim for reimbursement for expenses relative to the sale.

In Ratliff the claimant, also a longtime FBI employee, was appointed a special agent on December 5, 1977, approximately 4 months before Mr. Cardelli was appointed. However the decision in Ratliff was not issued by this Office until March 7, 1979, almost 8 months after Cardelli's claim arose. If Ratliff is to be applied prospectively only, we would have to disallow Cardelli's claim.

Both Ratliff's and Cardelli's claims were first denied by the FBI upon the basis of our decision in 46 Comp. Gen. 703 (1967). In that decision, we held that a newly appointed FBI special agent, assigned to Washington, D.C., for 14 weeks' training, was not entitled to reimbursement of expenses incurred in selling his house in St. Joseph, Michigan, incident to his permanent assignment after training to Oklahoma City. We so held since the residence sold was not located at the "old official station," as required by the applicable regulation, now paragraph 2-6.1 of the FTR. Apparently, the special agent in the 1967 case

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was a newly hired employee of the Government and would not have been entitled to the expenses of selling his residence in any event. See 22 Comp. Gen. 869 (1943). In 46 Comp. Gen. 703, it was also stated that, in circumstances identical to those of Ratliff and Cardelli, Washington, D.C., was the employee's official duty station.

As stated in Ratliff, however, we have held in recent decisions that when an employee's transfer is interrupted by an interim period of training at another location before the transfer, the training site is normally regarded as only an intermediate duty station. The PCS is not completed until after the training and the transfer to the new permanent duty location. See 52 Comp. Gen. 834 (1973); B-166030, February 19, 1969; and B-185281, May 24, 1976. Accordingly, in Ratliff, we distinguished 46 Comp. Gen. 703, and allowed the claimant to be paid his residence sale expenses at his former duty station under paragraph 2-6.1 of the Federal Travel Regulations upon transfer to his first duty station as a special agent.

The FBI maintains that, because it denied Cardelli's claim in reliance on 46 Comp. Gen. 703 (1967), the decision in Ratliff should not be applied retroactively. The FBI urges that the control date be the date of the Ratliff decision so that a special agent would only be entitled to real estate transaction expenses if he was officially transferred to his first assignment following training on or after March 7, 1979.

However, Ratliff followed an established rule that Federal employees are entitled to real estate expenses and other relocation expenses incident to a transfer between stations interrupted by a temporary period of training. Beginning with B-162756, February 5, 1968, and in several decisions since then, we have uniformly held that the applicable residence for real estate and other relocation expenses are those at the old and new permanent duty stations before and after an intervening training period. See 52 Comp. Gen. 834 (1973) and other decisions cited above. The Ratliff decision, therefore,

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did not in our opinion constitute a changed construction of law so as to require prospective-only application. Compare 56 Comp. Gen. 561 (1977) and 54 Comp. Gen. 890 (1975).

Accordingly, in accordance with the principle that adherence to precedent should control the outcome of the issue, and since FBI employees enjoy the same travel and transportation rights and benefits, as all other Federal employees, we have no choice but to honor any claim in circumstances similar to Ratliff if presented to this Office within 6 years of the date the claim arose. See 31 U.S.C. § 71a.

We have been informed that in relying upon the decision in 46 Comp. Gen. 703, supra, the FBI may have paid relocation expenses to a new employee upon completion of training and assignment of a permanent duty station to some area other than Washington. In such circumstances such payments would not be authorized. B-194642, August 24, 1979. However, because they were made in good faith in reliance upon our decision in 46 Comp. Gen. 703 we will not require collection action against those who may have been paid these expenses.

Consequently, for the purpose of Mr. Cardelli's entitlement to residence selling expenses: (1) his "old official station" was Philadelphia, where he sold his home; and (2) Washington was designated a duty station for administrative purposes only during the training period. His permanent change of station was between Philadelphia and Baltimore.

Since Mr. Cardelli's residence was sold at his "old official station", under para. 2-6.1 of the FTR, he may be reimbursed the expenses incurred for the sale of his residence incident to the change of duty station, if otherwise correct.



For the Comptroller General
of the United States