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DECISION



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

FILE: B-202661

DATE: December 15, 1981

MATTER OF: Charles S. Bruce -
Reimbursement for real estate expenses -
Closing costs paid by seller

DIGEST:

Employee is not entitled to reimbursement for real estate expenses paid by seller incident to purchase of home upon transfer. Although purchaser may be reimbursed for closing costs paid by seller included in purchase price where such costs are clearly discernible and separable from the property and both the buyer and seller regard costs as having been paid by buyer, claim may not be allowed where seller has not provided statement that any of the closing costs were included in the sales price or other documentation that both buyer and seller regard such costs as having been paid by the buyer.

Mr. Conrad R. Hoffman, Controller, Veterans Administration, requests our decision on whether closing costs above \$500 paid by the seller may be reimbursed to a transferred employee who purchased a residence at his new duty station.

Employee may not be reimbursed for closing costs in excess of \$500, even though an agreement to pay part of the closing costs might have been taken into account by the seller in determining his selling price, since the settlement statement shows that these costs were paid from the seller's funds and the employee has not submitted a statement from the seller indicating that both parties regarded the closing costs as having been paid by the buyer.

Mr. Charles S. Bruce, an employee of the Veterans Administration, purchased a residence in Prince Georges County, Maryland, incident to the transfer of his official duty station from New York, New York, to Washington, D.C. The sales contract dated October 24, 1980, specified a total price of \$56,645 and included an agreement that the seller pay all of purchaser's closing costs above \$500, including prepaid real estate taxes and hazard insurance. The contract price was paid by the purchaser at closing on November 24, 1980, by obtaining a Veterans Administration loan

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in the amount of \$56,600. Mr. Bruce submitted a claim in the amount of \$1,114.68 for expenses of closing costs exceeding the \$500 for which he has already been reimbursed.

The issue presented is whether Mr. Bruce's claim meets the standards set forth in Henry P. Holley, 56 Comp. Gen. 298 (1977) for reimbursement of real estate purchase expenses included in the purchase price and paid by the seller. In Holley the price allocable to the property was discernible and separable from the closing costs claimed and the record established that both buyer and seller regarded costs as having been paid by buyer. We held that the claim could be paid if itemized and otherwise properly documented. We note that reimbursement is not precluded simply because it is not customary for the seller to pay the buyer's closing costs. Cases such as Burton Newark, B-190715, March 24, 1978, involving real estate expenses claimed under similar circumstances by the seller rather than the purchaser of a residence are inapposite to the issue in this case.

On claimant's behalf the submission points out that the closing costs are clearly identifiable and discernible both by item and amount on the closing statements dated November 24, 1980, and that the specific closing costs can be mathematically subtracted from the contract price to establish a separate price allocable to the real estate. The employee contends that he paid these identifiable closing costs in excess of \$500 by incurring liability for the mortgage note as these costs were included in the total contract price for the house. The Director, Regional Office, Veterans Administration, Washington, D.C., suggests that since it is not customary in Prince George's County for the seller to assume the closing costs ordinarily paid by the buyer, the seller's agreement to assume those costs in this case necessarily reduces the price of the residence to an amount below the stated sales price.

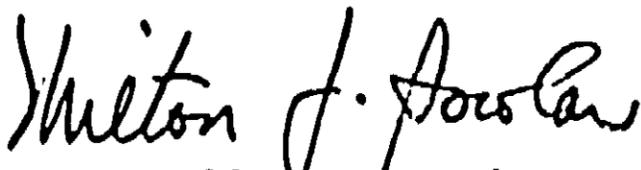
The settlement statement shows that the seller received the contract sales price of \$56,645 plus \$500 for closing cost and that all of the closing costs were paid from the seller's funds at settlement. There is no indication in the sales contract that the closing costs assumed by the seller were included in the sales price of the residence nor any statement from the seller to the effect that the

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buyer and seller regarded such closing costs as having been paid by the buyer.

The requirement that an employee submit documentation to show that both the buyer and the seller regarded the closing costs to have been paid by the purchaser was clarified and amplified in Henry F. Holley, supra. In a decision interpreting the Holley case, Philibert A. Quellet, B-200257, August 18, 1981, we considered the precise question raised here. In that case, the buyer maintained that the seller included the closing costs that the seller paid in the sales price. However, the seller refused to certify that the closing costs were included in the sales price, maintaining instead that the settlement sheet accurately reflected the transaction. The employee did not submit any direct evidence to overcome the seller's assertions. Therefore, we held that the employee had not satisfied the burden of proof incumbent upon claimants. See 4 C.F.R. § 31.7 (1981). In so holding we noted that the contract of sale imposed liability for the closing costs on the seller, and we specifically rejected the argument that the closing costs become just another factor in pricing the house. Compare Martin Wood, B-202684, October 19, 1981.

The arguments presented by Mr. Bruce and in support of his claim are similar to those made and rejected in the Quellet and Wood decisions. Since Mr. Bruce has not submitted a statement from the seller or other direct evidence to document the fact that he and the seller regarded the closing costs as having been paid by him, reimbursement is not allowed.

for 
Comptroller General
of the United States