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DECISION

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

202775

FILE: B-202758 **DATE:** February 22, 1982

MATTER OF: Bernard L. Singer - Real Estate Sales Expenses

DIGEST:

An employee of the Department of the Air Force claims reimbursement for real estate expenses incurred in selling his residence in Grand Island, Nebraska, incident to a permanent change of station from Peterson Air Force Base, Colorado, to Offutt Air Force Base, Nebraska. This residence, however, was not the one from which he regularly commuted to and from work. Rather, the employee lived in a mobile home from which he commuted to work at Peterson and from which he visited his family in Grand Island, Nebraska, on weekends. Employee has thus not fulfilled requirement of Joint Travel Regulations that in order to be entitled to reimbursement of expenses of sale of residence at former duty station, he must have commuted to and from work from that residence. Accordingly, claim is denied.

This is in response to a request for an advance decision from Lieutenant Colonel J. Greenstreet, Chief, Accounting and Finance Branch, Offutt Air Force Base, Nebraska, concerning whether Mr. Bernard L. Singer, a civilian employee of the Department of Defense, may be reimbursed for real estate expenses incurred incident to a permanent change of station. The only issue involved is whether Mr. Singer is entitled to reimbursement of real estate expenses incident to the sale of a residence in Grand Island, Nebraska, to which he commuted only on weekends. We conclude that the expenses of selling the residence in Grand Island, Nebraska, may not be reimbursed to Mr. Singer because the property sold was not the residence from which he regularly commuted to and from his former duty station as required by regulations.

Because of a reorganization, at Mr. Singer's permanent duty station, Peterson Air Force Base (AFB) Colorado, his position was abolished and he was notified of an impending reduction-in-force action. Due to the uncertainty whether he would continue to be employed there, and in view of the nearness of the beginning of the new school year for his children, he decided to buy a house in Grand Island, Nebraska, his home town, and move his family there. From August 1979 to August 1980, he lived in a camper near Peterson AFB during the work week, and commuted by his own private airplane to Grand Island, Nebraska, on most weekends. On December 11, 1979, he was notified of his transfer to Offutt AFB, Nebraska, and reported for duty there, on January 3, 1980. In August 1980, he sold the residence in Grand Island, Nebraska, and bought a residence in Plattsmouth, Nebraska, near his new duty station. The agency questions whether expenses incurred incident to the sale of the residence in Grand Island are reimbursable because that residence was not the one from which Mr. Singer regularly commuted to and from work, as required by volume 2 of the Joint Travel Regulations, paragraph C 14000-1.6. Mr. Singer argues that because of the extenuating circumstances at Peterson AFB, his only option was to relocate his family to Grand Island. Further, he argues that the commuting requirement should be read more liberally to allow payment in his situation. Finally, he believes that the approval of his travel orders by the Civilian Personnel Officer authorizing payment is binding on the Government.

Paragraph C 14000-1.6 of the Joint Travel Regulations, provides for entitlement to reimbursement of certain real estate expenses provided that:

> "the residence or dwelling is the residence (which may be a mobile home and/or the lot on which such mobile home is located or will be located) from which the employee regularly commutes to and from work * * *."

In interpreting this provision and a similar one in the Federal Travel Regulations (FPMR 101-7, May 1973), paragraph 2-6.1b, our Office has consistently held that where an employee returns to a residence only on weekends, such a residence does not constitute a residence from

which the employee regularly commuted to and from work. Duane S. Hardesty, B-191111, March 31, 1978 Fred Kaczmarowski, B-189898, November 3, 1977. Thus, Mr. Singer's claim for reimbursement for expenses incurred in selling a residence in Grand Island, Nebraska, is disallowed since that residence does not satisfy the requirements of the regulation authorizing reimbursement.

In the present case, Mr. Singer also claims that he relied on assurances by the Civilian Personnel Officer that he would be reimbursed for his real estate expenses. It is a well-settled rule, however, that in the absence of specific statutory authority, the United States is not responsible for the erroneous acts of its officers, agents, or employees, even though committed in the performance of their official duties. 54 Comp. Gen. 747 (1975); 53 Comp. Gen. 834 (1974); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); German Bank v. United States, 148 U.S. 573 (1893). Furthermore, an employee's entitlement to relocation expenses are governed by statute, not by principles of contract law. Duane S. Hardesty, supra.

Accordingly, Mr. Singer's claim for reimbursement of real estate expenses and for the selling of the residence in Grand Island, Nebraska, is denied. We observe, however, that he may be entitled to reimbursement of real estate expenses in connection with the sale of his mobile home or the settlement of an unexpired lease involving it at his former duty station, if otherwise proper.

for Milton J. Socolar
Comptroller General
of the United States