

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548***Met...***FILE:** B-207144**DATE:** October 5, 1982**MATTER OF:** Lieutenant Colonel William A.
Terrio, USA, Retired

DIGEST: Service member's claim for personal and dependents' travel from Heidelberg, Germany, where he retired from active duty, to a place contended to be his home of selection upon retirement, Gold Hill, Oregon, is disallowed, since he has remained in Germany and has shown no evidence of actual and continuous residence in Oregon, and the fact that he might ultimately move to Oregon does not provide basis for payment.

Lieutenant Colonel William A. Terrio, USA, Retired, requests reconsideration of our Claims Group's March 8, 1982 denial of his claim for expenses of personal and dependent travel in 1980 from Germany to a home of selection in Gold Hill, Oregon, based upon his retirement in 1979. The claim was disallowed since his stay in Oregon of less than 2 months before returning to Germany did not evidence an intent to establish a home of selection. The denial is sustained.

Colonel Terrio retired from active Army service at Heidelberg, Germany, effective June 29, 1979. On about June 27, 1980, he and his son traveled by automobile from Heidelberg to Frankfurt, Germany; by air to Seattle, Washington; and by automobile to Gold Hill, Oregon. Airline tickets used by him and his son submitted with his claim for reimbursement of the cost of their transportation indicate that they returned by air to Frankfurt on August 11, 1980. He did not submit airline tickets in support of his further claim for reimbursement of transportation costs for his wife and daughter, and he states that they did not accompany him on the trip to Oregon. However, he suggests that he should nevertheless be allowed dependent travel allowances on their account because they were listed as his dependents in his 1979 retirement orders. After returning from Gold Hill, Colonel Terrio continued to live in Heidelberg

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with his family, and his current mailing address indicates that he still resides in Heidelberg now.

In his request for reconsideration of the previous disallowance of his claim, Colonel Terrio contends that extensive improvements that he made from July 1980 through October 1981 to farmland that he owns near Gold Hill, including the construction of a barn that might someday be converted to a house, substantiate his intent to establish his home of selection at that location.

Section 404 of title 37, United States Code (1976), provides in pertinent part in subsection (c), that a member of a uniformed service who is retired may, not later than 1 year from the date he is retired, select his home for the purposes of the travel and transportation allowances authorized by subsection (a) of that section.

Section 406 of title 37, United States Code (1976), provides in subsection (g) that under regulations to be prescribed by the Secretaries concerned, a member who is retired is, not later than 1 year from the date he is retired, entitled to transportation for his dependents, baggage and household effects to the home selected under 37 U.S.C. 404(c).

Paragraph M4158 of Volume 1, Joint Travel Regulations, implementing section 404(c) of title 37, United States Code, provides in subparagraph 1a that a member on active duty who is retired may select his home and be entitled to travel and transportation allowances thereto from his last duty station. Paragraph M7010-1a contains similar provisions regarding the travel of his dependents to the home selected by the member.

Appendix J of the Joint Travel Regulations defines "home of selection" as used in these regulations to mean the place selected by a member as his home upon retirement.

The purpose of these statutes and regulations is to authorize travel at Government expense for a retired service member and his dependents, and transportation of household effects, to the place where he goes to reside following retirement. Unless that place has been selected and travel to it for that purpose has been performed

within 1 year of retirement, no right to travel and transportation allowances accrues. See 36 Comp. Gen. 774 (1957). The best evidence, of course, that the travel for which a member seeks reimbursement was to a place selected by him as his home upon retirement, is his actual and continued residence at that place. In cases in which the member's stay in a particular place does not exceed the span of a short visit, the conclusion, in the absence of other clear and convincing evidence to the contrary, is that the travel involved was not travel to a selected home within the contemplation of the Joint Travel Regulations. See 52 Comp. Gen. 242, 244 (1972). We have consistently held that a trip of short duration taken within 1 year of retirement for the mere purpose of visiting a possible future homesite may not properly be considered travel to a selected home upon retirement under the regulations. See, e.g., Matter of Cartwright, B-188212, March 17, 1977; Matter of McCullough, B-165476, July 23, 1976; and Matter of Berenzweig, B-181629, July 16, 1975.

In the present case, Colonel Terrio's improvement of his property in Oregon and the indication that he may intend to live there at some future date does not make it his home of selection upon retirement under the applicable statutes and regulations. The fact remains that he traveled there for only a short stay of approximately 6 weeks, and it appears that his final selection of his home upon retirement is Heidelberg, Germany, where he was released from active service and continues to reside. Hence, we conclude that while he may intend to make Gold Hill, Oregon, his home sometime in the future, he did not make it his home at any time during the prescribed 1-year period following his retirement. Therefore, payment of travel and transportation allowances for a move of Colonel Terrio and his dependents from Heidelberg, Germany, to Gold Hill, Oregon, is not authorized. Accordingly, the action taken by our Claims Group disallowing Colonel Terrio's claim is sustained.

for *J. H. Barclay, Jr.*
Comptroller General
of the United States