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DECISION



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

FILE: B-209002

DATE: March 1, 1983

MATTER OF: Robert L. Rogers - Relocation Allowances -
Wife as Member of Employee's Household

DIGEST:

For 2 years, an employee and his wife maintained separate residences out of occupational necessity. Because the separation was not due to the dissolution of the marriage and because the parties have reestablished a common household at the employee's new permanent duty station, the wife should be considered a member of the employee's household at the time of his transfer. Thus, he is eligible to receive relocation allowances for expenses incurred by his wife when she joined him at his permanent duty station.

This decision is in response to a request for an advance decision from Dan Polley, a certifying officer of the General Services Administration (GSA), Region 4, concerning a claim for relocation allowances from a GSA employee, Robert L. Rogers. The issue for determination is whether an agency is obligated to reimburse an employee for his wife's relocation expenses where, as of the date of the employee's transfer, the couple had been residing separately in different cities for over 2 years. We hold that, since separate residences were maintained out of occupational necessity rather than a mutual desire to remain apart, the agency is obligated to reimburse the employee for his wife's relocation expenses.

In August 1979, Mr. and Mrs. Rogers moved to Voorhees, New Jersey. At that point, they were both employed by GSA with an official duty station of Philadelphia, Pennsylvania. The Rogers' soon found that they were not pleased with their new location and planned to seek positions in the Washington, D.C., area.

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In January 1980, Mrs. Rogers was selected for a promotion and reported for duty with GSA in Washington, D.C. She rented an apartment in Falls Church, Virginia, expecting that her husband would soon join her. Mr. Rogers was unable to secure a position in Washington, D.C., and consequently, he continued to reside in New Jersey from January 1980 to July 1982. During the 2-1/2 year period that they lived apart, the Rogers maintained their relationship by visiting each other on weekends.

In July 1982, Mr. Rogers was transferred to a new duty station in Atlanta, Georgia. Mrs. Rogers was unable to join him until she secured a position in Atlanta because her salary was needed to meet the continuing mortgage payments due on their home in Voorhees, New Jersey. The house is presently listed for sale. Mrs. Rogers was selected at a later date for a position with GSA in Atlanta. No additional travel allowances were authorized based on her selection. Mr. Rogers is now seeking reimbursement for his wife's relocation expenses. Such expenses arose during a roundtrip performed by her for househunting purposes in July 1982, and her eventual move to Atlanta in August 1982 by privately owned vehicle. The expenses were authorized by GSA in advance of Mr. Roger's travel, subject to a later determination of eligibility by the Comptroller General.

Statutory authority for the reimbursement of relocation expenses is found in Subchapter II of Chapter 57, Title 5, United States Code. Section 5724(a) designates the situations in which expenses, incurred by the employee or his "immediate family", shall be reimbursed. If Mrs. Rogers' expenses are to be allowed, she must be found to be a member of the employee's "immediate family".

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Chapter 2 of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), paragraph 2-1.4(d) defines "immediate family" as follows:

"(1) Any of the following named members of the employee's household at the time he/she reports for duty at the new permanent duty station* * *:
"(a) Spouse;* * * "

The above definition requires that Mrs. Rogers qualify as both a spouse and a member of Mr. Rogers' household at the time of his transfer to Atlanta. Because of the length of time of their separation, it is necessary for us to determine whether Mrs. Rogers can be included as a member of her husband's "household" for the purposes of FTR paragraph 2-1.4d.

Decisions rendered by this Office have indicated that the concept of "the household" is not to be strictly construed in literal terms. Persons may be members of the same household even though they are not living under the same roof. See Ernest F. Gianotti, 59 Comp. Gen. 450 (1980).

The intent of the individuals in question, as evidenced by their actions, is a controlling factor in the determination of whether or not he or she is a member of the household. Ernest F. Gianotti, cited above. For example, in 25 Comp. Gen. 325 (1945), we held that temporary absence from home for the purpose of attending school, visiting, or similar temporary purposes, at the time of the transfer of the employee, would not have the effect of removing such individuals from consideration as members of the employee's household.

In B-161408, June 1, 1967, as in the case before us, unforeseen circumstances prevented the employee's

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family member from living under the same roof with him at the time of his relocation. Prior to the employee's transfer, his mother maintained a separate residence. When she became seriously ill and was later hospitalized it was decided that she would move in with her son. Before she could be released, her son was transferred. She joined him at his new station a few weeks later. We held that she was a constructive member of his household because, were it not for her confinement, she would have been physically residing with him at the time he reported for duty at his new station.

Clearly, if Mr. and Mrs. Rogers had been legally separated or divorced at the time he reported for duty in Atlanta, with no intentions of resuming their marriage, Mrs. Rogers would not qualify as a member of Mr. Rogers' household. See William A. Cromer, B-205869, June 8, 1982. That is not the case in this matter, however. It is evident, from their efforts to obtain positions in the same locality and their frequent visits during the period of their physical separation, that they intended to constitute one household, though external circumstances made that goal difficult to achieve. Their intent was most clearly manifested by the fact that Mrs. Rogers found a position in Atlanta and relocated there as soon as it was feasible to do so.

Reimbursement for her roundtrip in July for househunting purposes is also allowable, as authorized under FTR paragraph 2-4.1a. It has been determined that reimbursement of the cost of a househunting trip made by an employee's wife is not precluded merely because the travel was performed after the employee had transferred, so long as the trip is performed prior to the family's (Mrs. Rogers) move to the new official station. See B-166119, March 6, 1969.

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Mr. Rogers may also be reimbursed the \$200 miscellaneous expense allowance authorized by FTR paragraph 2-3.3a(2), for an employee with immediate family since Mrs. Rogers has joined Mr. Rogers at his duty site. See Joe D. Brockman, B-184558, August 12, 1976.

Accordingly, Mr. Rogers, is eligible for reimbursement for the relocation expenses incurred by his wife when she joined him in Atlanta. However, such reimbursement for her travel expenses is not to exceed the allowable cost by the usually traveled route between the employee's old and new official stations. FTR paragraph 2-2a.

for 
Comptroller General
of the United States