

**DECISION**

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

31043

FILE: B-216401

DATE: April 22, 1985

MATTER OF: Dr. Mohamed M. Shanbaky

**DIGEST:** An employee who sold his residence at his former duty station after he had been notified that he was to be transferred back to that same duty station, claims temporary quarters subsistence expenses and expenses relating to the purchase of a new residence. Since the time allowed for reimbursement of real estate expenses incident to the initial transfer had expired some months before he was notified of the retransfer, the costs of purchasing the new residence and temporary quarters subsistence expenses may be allowed.

An employee who sold his old residence at his former duty station after he had been notified that he was to be transferred back to that same duty station, claims temporary quarters subsistence expenses and expenses relating to the purchase of a new residence at that duty station.<sup>1/</sup> Since the employee was notified of his transfer back to his former station after the time for sale of his residence incident to the initial transfer had expired, the decision in Warren L. Shipp, 59 Comp. Gen. 502 (1980), is not controlling. See Robert T. Celso, B-216950, dated today. Accordingly, the costs of purchasing the new residence and temporary quarters subsistence expenses may be allowed.

Dr. Mohamed M. Shanbaky, an employee of the Nuclear Regulatory Commission, was transferred in January 1980 from King of Prussia, Pennsylvania, to Three Mile Island, Pennsylvania. At that time he owned and resided in a condominium at Royersford, Pennsylvania. He remained in that residence, commuting to Three Mile Island, until July 1980

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<sup>1/</sup> Angelo S. Puglise, Director, Division of Accounting and Finance, Nuclear Regulatory Commission, submitted this request for a decision.

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when he purchased a dwelling in Elizabethtown, Pennsylvania. He retained the condominium in Royersford as a rental property. Dr. Shanbaky was unsuccessful in efforts to sell the condominium until August 1982 when he agreed on the selling price with a prospective buyer and made a verbal agreement for sale of the property. A written sales agreement was later signed and the sale of the condominium was closed December 31, 1982.

After making the verbal commitment to sell the condominium, but before a written agreement was signed, Dr. Shanbaky was notified that he was to be transferred back to King of Prussia. He reported to his former duty station on October 19, 1982, but continued to reside in Elizabethtown until September 5, 1983. From that date he and his family occupied temporary quarters until November 1983 when they moved into a newly constructed residence at Downingtown, Pennsylvania.

In addition to mileage and per diem for travel to the new duty station, Dr. Shanbaky claims temporary quarters subsistence expenses for himself and family from September 5 to October 4, 1983, in the amount of \$3,023.55, and expenses relating to the purchase of the residence at Downingtown, Pennsylvania, in the amount of \$4,775.

The submission refers to Warren L. Shipp, 59 Comp. Gen. 502 (1980), in which we stated the rule that employees must avoid unnecessary expenditures when retransferred to their former duty stations. We said specifically that once an employee is notified that he is being transferred back to his former duty station, the Government's obligation to reimburse real estate expenses is limited to the expenses already incurred and those which cannot be avoided. In a decision issued today, Robert T. Celso, B-216950, 64 Comp. Gen. \_\_\_\_\_, we reexamined the holding in Warren L. Shipp, 59 Comp. Gen. 502, supra, and limited the scope of the decision to cover only those employees who are notified of retransfer to their former duty stations within the maximum period allowed for completing residence transactions.

Since Dr. Shanbaky transferred to Three Mile Island in January 1980, his eligibility for real estate expense reimbursement incident to that transfer expired in January 1982, some months before he was notified of the retransfer. In that connection we note that the amendment to the Federal

Travel Regulations allowing a maximum of 3 years for real estate transaction which was promulgated in August 1982 applied only to those previously transferred employees whose eligibility for reimbursement of real estate transaction expense had not expired on the date the new regulation was issued (August 23, 1982). FTR para. 2-6.1(5).

Accordingly, the limitation imposed on reimbursement of real estate expenses by the Shipp decision is not applicable in Dr. Shanbaky's case. It follows that no similar restriction is required with respect to temporary quarters subsistence expenses. To the extent it is otherwise allowable under applicable regulations Dr. Shanbaky's claim may be paid.

*for* *Larry R. Jan Clue*  
Comptroller General  
of the United States