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**DECISION**



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

**FILE:** B-217784

**DATE:** September 3, 1985

**MATTER OF:** Anthony J. Bugni - Reimbursement for Real Estate Broker's Commission

**DIGEST:**

1. Transferred employee seeks reimbursement of 12 percent real estate broker's commission he paid in connection with sale of his residence at old duty station. Agency determined, based upon statement by HUD, that 7 percent was the prevailing rate customarily charged in locale of the old residence. FTR para. 2-6.2a requires that applicable rate is the rate generally charged by real estate brokers or agents in area of the old residence, not rate charged by particular agent used by employee. If employee, to expedite sale, pays a commission greater than that usually charged, he may not be reimbursed for the extra commission.
  
2. Transferred employee seeks payment of real estate commission to himself representing expenses he incurred in the purchase of a mobile home at his new duty station. FTR para. 2-6.2a expressly prohibits payment of such a commission in connection with the purchase, by the employee, of a home, including a mobile home, at his new official station.

This decision is in response to a request by Mr. Bert Bernard, Chief, Financial Services Section, Branch of Finance, Mine Safety and Health Administration, United States Department of Labor, for a decision as to whether a reclaim travel voucher submitted by Mr. Anthony J. Bugni, an employee of the agency, may be certified for payment. Mr. Bugni requests reimbursement of charges (\$810) paid for a real estate commission totaling approximately 12 percent

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in the sale of his residence at his old duty station, and for expenses (\$250) equivalent to a real estate broker's commission he would have incurred in the purchase of a mobile home at his new duty station, incident to his permanent change of official station from Mankato, Minnesota, to Grundy, Virginia, in 1982. For the reasons hereafter stated, the claimed expenses may not be certified for payment.

Mr. Bugni's claim for reimbursement of the real estate commission in the sale of his residence in Mankato, Minnesota, was disallowed to the extent that it exceeded 7 percent. The 7 percent rate was based upon information furnished by the United States Department of Housing and Urban Development (HUD) office located in Minneapolis, Minnesota. Further, the local HUD office advised that a rate of 10 percent or higher would be very unusual and considered to be exorbitant except as to undeveloped land.

In regard to reimbursement of the expenses equivalent to a real estate commission claimed by Mr. Bugni, associated with the purchase of a mobile home in Grundy, Virginia, the Department of Labor was unable to establish a legal basis to support payment of this claim.

Mr. Bugni states that for 2 years he had his former residence listed for sale with two different agencies with negative results. He reports that it was sold only after he had contacted an agency that charged a slightly higher commission. The claimant states that the sales price of the residence was not exorbitant and that it was sold at the assessed valuation. He believes that he is entitled to reimbursement of the percentage of real estate commission that he was charged and paid.

Mr. Bugni also says that the Department of Labor did not credit him with any of the expenses incurred when he purchased a mobile home at his new duty station because he did not purchase it through a real estate agency. He states that he acted as his own agent and therefore believes that he is entitled to the real estate commission that a real estate agent would have charged since he incurred certain expenses, i.e., costs of ads in the newspaper, trips to examine prospective sales, etc., relative to the purchase of the mobile home.

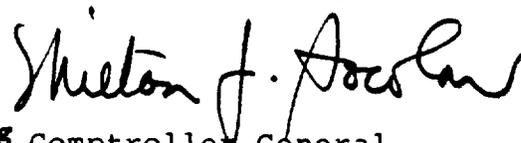
The statutory authority for reimbursement of real estate expenses incurred in a change of permanent duty station is found in 5 U.S.C. § 5724a(a)(4) (1982). The statute provides for the reimbursement of certain expenses incurred in the sale, by the employee, of a residence at his old duty station and the purchase of a residence at his new duty station. In regard to the payment of brokerage fees incurred in the sale of an employee's residence at his old duty station, the statutory authority provides, however, that reimbursement of such fees "may not exceed those customarily charged in the locality where the residence is located. \* \* \*" The implementing regulation, paragraph 2-6.2a of the Federal Travel Regulations, (Supp. 4, August 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1984) (FTR), states that a broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable, but not in excess of rates generally charged for such services in the locality of the old official station.

We have consistently held that the regulations require that the applicable commission rate is the rate generally charged by real estate brokers in the area, not the rate charged by the particular broker used by the employee to sell his residence. George C. Symons, B-188527, January 26, 1978. Thus, it is clear that the commission rate reimbursable under the statute and the FTR is an area rate which is not rendered invalid by the fact that some brokers charge a higher or a lower commission rate. Doss H. White, Jr., B-197908, April 21, 1980. Further, these provisions do not allow reimbursement for sales commissions above the general area rate, even where the higher commission rate was needed to expedite the sale. Raymond L. Hipsher, B-214555, August 28, 1984; Calvin T. Westmoreland, B-196517, February 19, 1980; Symons, supra.

With respect to payment of a real estate commission to Mr. Bugni representing expenses which he incurred in the purchase of a mobile home at his new post of duty, and in acting as his own agent, FTR para. 2-6.2a, cited earlier, expressly prohibits the payment of a real estate commission in connection with the purchase, by the employee, of a home, including a mobile home, at his new official station.

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Accordingly, the reclaim travel voucher, submitted by Mr. Anthony J. Bugni for reimbursement of a real estate commission in excess of 7 percent in the sale of his residence at his old duty station and payment of a real estate commission to him in the purchase of a mobile home at his new official station, may not be certified for payment.



Acting Comptroller General  
of the United States