



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: William H. Selzer, Jr. - Real Estate Expenses -
Changes of Official Station

File: B-224775

Date: April 7, 1987

DIGEST

An employee may not be reimbursed for several real estate expense items incurred incident to two changes of official station since the expenses were determined not to be customarily paid by the seller or purchaser, as applicable in each case. In addition, the costs incurred in termination of a lease are not reimbursable since the payment was not required by the terms of the lease and did not otherwise meet the conditions of the applicable regulation. A loan origination fee incurred in 1974 may not be reimbursed under the regulation in effect at that time. However, the employee may be reimbursed for the cost of an appraisal fee incurred in connection with his purchase of a residence since, under a conventional loan in that area, the purchaser is customarily required to pay an appraisal fee.

DECISION

Mr. William H. Selzer, Jr., a former employee of the Immigration and Naturalization Service (INS), Department of Justice, has appealed Settlement Certificate Z-2621210, November 7, 1977, issued by our Claims Group, which disallowed his claim for reimbursement of certain relocation expenses incurred in connection with two changes of his official duty station in 1971 and 1973. For the reasons stated later in this decision, we sustain the Claims Group's settlement action, in part, and overrule the disallowance of one claimed expense.

BACKGROUND

The INS authorized a change of official station for Mr. Selzer from the Virgin Islands to Phoenix, Arizona, in July 1971, and from Phoenix to Tucson, Arizona, in November 1973. Mr. Selzer submitted travel vouchers in which he claimed reimbursement for certain real estate

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expenses incurred in the two changes of duty stations. Some of the claimed expenses were allowed by INS, while other expenses were disallowed. In his letter of appeal, Mr. Selzer seeks reimbursement of the expenses which were disallowed by the INS, and he cites to our decision, William I. Massengale, B-185863, August 25, 1976.

In connection with his transfer from the Virgin Islands to Phoenix, Arizona, Mr. Selzer is claiming reimbursement for the expenses he incurred in the termination of a lease in the Virgin Islands. He is also seeking reimbursement for an appraisal fee incurred incident to his purchase of a residence in Phoenix. Incident to his transfer from Phoenix to Tucson, Arizona, and the sale of his residence in Phoenix, Mr. Selzer is seeking reimbursement of a mortgage title insurance fee, an appraisal fee, a credit report, a loan service fee, a document preparation fee, a photo and inspection fee, a bringdown fee, an escrow fee, and a charge for repairs to a bathroom. In regard to the purchase of a residence in Tucson, Mr. Selzer is claiming the costs of a credit report and a loan origination fee.

OPINION

The authority for reimbursement of real estate expenses incurred by an employee pursuant to a change of official station is contained in 5 U.S.C. § 5724a and the implementing regulations, Office of Management and Budget (OMB) Circular NO. A-56 (revised June 26, 1969) and the Federal Travel Regulations (FTR), FPMR 101-7, May 1973. Under both sets of regulations, certain real estate expenses are reimbursable provided they are "customarily" paid by the seller or purchaser in localities where the old and new residences are located. OMB Circ. No. A-56, para. 4.2d, and FTR para. 2-6.2d. Further, this Office has also held that the "custom" may vary in accordance with the type of financing, i.e., Federal Housing Administration (FHA), Veterans Administration (VA), or conventional, which is utilized in the sale or purchase transactions. See Barry C. Nilson, B-218946, November 12, 1985; Judi A. Williams, B-205584, August 2, 1982; and Massengale, cited above.

With respect to the expenses incurred by Mr. Selzer in the termination of the lease on his living quarters in the Virgin Islands, there is no indication that the payment of expenses involved in the settlement of the lease was required by the terms of the lease or that such payment met the other conditions set forth in OMB Circ. A-56, sec. 4.2f. Therefore, we find no basis to overturn our prior determination denying reimbursement for lease termination expenses.

The next item concerns the cost of the appraisal fee paid by Mr. Selzer in the purchase of a residence in Phoenix under a conventional loan. The agency and our Claims Group previously denied the claim on the basis that it was customary for the seller to pay the appraisal fee in that area. However, the record indicates that while the seller customarily paid the appraisal fee for FHA or VA financing, the buyer typically paid the appraisal fee for conventional loans. Therefore, the claim was denied without taking into consideration the specific type of loan involved in the purchase. Since Mr. Selzer purchased a residence in Phoenix under a conventional loan and since the FHA states that in these circumstances the purchaser customarily paid the appraisal fee, we conclude that Mr. Selzer is entitled to reimbursement of the \$60 appraisal fee which he paid. See Williams, and Massengale, cited above.

As to other expenses incurred by Mr. Selzer in the sale of his Phoenix residence, the Department of Housing and Urban Development (HUD) (successor agency to the FHA) advised INS that in the Phoenix area, these expenses were customarily paid by the purchaser. In determining whether certain real estate closing costs are customarily paid by the seller or buyer in a given locality, FTR para. 2-6.3c states that the local HUD office should be consulted. Since the local HUD office advised INS that the previously enumerated expenses are customarily paid by the purchaser, Mr. Selzer may not be reimbursed for these expenses. See 54 Comp. Gen. 827 (1975), and Burton Newmark, B-190715, March 24, 1978.

Mr. Selzer also claimed reimbursement of two additional expenses incurred in the sale of his Phoenix residence, an escrow fee (\$111) and repairs to a bathroom (\$25). The INS allowed and paid one-half of the escrow fee service since, in the Phoenix area, it was the prevailing customary practice for the seller and the purchaser each to pay one-half of the escrow fee. This treatment of the escrow fee by INS was proper and in accordance with FTR para. 2-6.2d. The cost of repair to the bathroom is a maintenance cost which, in accordance with FTR para. 2-6.2d, may not be reimbursed.

In regard to the purchase of his residence in Tucson, Mr. Selzer claimed reimbursement for the costs of a credit report (\$25) and a loan origination fee (\$422.50). The INS reimbursed Mr. Selzer the sum of \$15 for the credit report

upon the advice of the local HUD office that the reduced amount was considered to be reasonable and customary. This reduction appears to be proper. See 54 Comp. Gen. 827 and Newmark, cited above. With respect to reimbursement of the loan origination fee, at the time Mr. Selzer purchased his residence in Tucson, FTR para. 2-6.2d specifically precluded reimbursement of loan origination fees. Therefore, reimbursement was properly denied.

In accordance with the above discussion, we will instruct our Claims Group to issue a settlement to Mr. Selzer for reimbursement of the cost of the appraisal fee incurred in the purchase of a residence in Phoenix, Arizona.

Milton J. Howler
for Comptroller General
of the United States