



The Comptroller General
of the United States

Washington, D.C. 20548

135297

Decision

Matter of: Mark B. Gregory - Claim for Real Estate Expenses
File: B-229230
Date: March 14, 1988

DIGEST

1. A transferred employee claims reimbursement for a closing fee paid by him incident to the purchase of a residence at his new station on the basis that the charge was customary in that area. The claim is denied. Miscellaneous real estate expenses reimbursable under the Federal Travel Regulations as a purchaser expense are reimbursable only if it is customary for the purchaser to pay it. According to information obtained from the Department of Housing and Urban Development, the closing fee claimed is not customarily paid by a purchaser in the area.
2. A transferred employee claims reimbursement for Federal Express charges incurred by him to speed delivery of his mortgage loan application. Paragraph 2-6.2d(1) of the Federal Travel Regulations lists specifically reimbursable expenses in clauses (a) through (e), and in clause (f) authorizes reimbursement for expenses "similar in nature to" the specifically listed items. Since none of the listed authorized expenses relate to delivery fees, the Federal Express fee may not be allowed under any of those clauses, nor under FTR para. 2-6.2f which authorizes reimbursement for other unspecified expenses since the expense was not for a "required service."
3. A transferred employee claims reimbursement for an Adjustable Rate Mortgage (ARM) fee, which was charged him as an expense incident to documenting the lender's interest by endorsement to the title insurance policy. While under paragraph 2-6.2d(2)(e) of the Federal Travel Regulations, finance charges are nonreimbursable, the expense here may be reimbursed. The expense in question was not part of the chain of documentation required in order to obtain financing but was for additional work required by the lender after the loan was approved. Cf. Ray F. Hunt, B-226271, Nov. 5, 1987.

041575/135297

DECISION

This decision is in response to a letter from Mr. Mark B. Gregory. He is appealing our Claims Group's settlement Z-2864243, May 1, 1987, which disallowed certain real estate related expenses incurred incident to a permanent change of station in February 1985. For the following reasons, we sustain in part and overrule in part that disallowance.

BACKGROUND

Mr. Mark B. Gregory, an employee of the Internal Revenue Service, Department of the Treasury, was transferred from Springfield, Illinois, to St. Paul, Minnesota, with a reporting date of February 15, 1985. Incident to that transfer, he sold a residence near his old duty station and purchased one near his new duty station. The agency denied certain real estate expenses, Mr. Gregory appealed, and the agency submitted the claim to our Claims Group for consideration. The expenses in issue were a closing fee of \$150, which was paid to the title insurance company, an Adjustable Rate Mortgage (ARM) fee of \$50, and a Federal Express fee of \$25. By settlement dated May 1, 1987, all three items were disallowed by our Claims Group since these expenses were not customarily paid in the area, citing to paragraph 2-6.3 of the Federal Travel Regulations.

In his appeal of our Claims Group's disallowance, Mr. Gregory asserts that the ARM fee and the closing fee are fees which are customarily charged in the St. Paul area. Further, he contends that the Federal Express fee was a necessary expense since he only had a maximum of 6 weeks to have his loan on his new residence approved, rather than the normal 6-8 weeks. Since he was still living in Springfield, Illinois, at the time, Mr. Gregory contends that the expense was incurred to insure the quickest delivery of his signed mortgage loan application for processing purposes.

OPINION

The provisions governing reimbursement for real estate related expenses incident to a transfer are contained in 5 U.S.C. § 5724a(a)(4) and regulations contained in

chapter 2 of the Federal Travel Regulations (FTR) (Supp. 4, Aug. 23, 1982) incorp. by ref., 41 C.F.R. § 101-7.003 (1985). Paragraph 2-6.2d(1) of the FTR lists various miscellaneous expenses which may be reimbursed in connection with real estate transactions while paragraph 2-6.2d(2) of the FTR lists those items which may not be reimbursed. However, as explained in paragraph 2-6.2d(1), reimbursement is based on whether the expense items:

"* * * are customarily paid by the seller of a residence in the locality of the old official station or by the purchaser of a residence at the new official station to the extent they do not exceed amounts customarily paid in the locality of the residence."

Additionally, paragraph 2-6.2f of the FTR, which authorizes reimbursement for other incidental charges imposed on the transferred employee for required services in the residence sale and purchase process, contains the same language. See also FTR para. 2-6.2c.

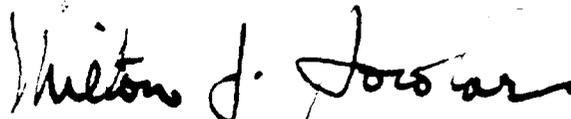
With regard to the closing fee of \$150, we note that this cost represents a fee to the title insurance company for using a conference room to conduct the settlement and to have the title company review the settlement charges at the closing. Mr. Gregory has provided no evidence to dispute the information obtained by our Claims Group from the Department of Housing and Urban Development that this closing or settlement fee is not customarily paid by the purchaser in this area. Therefore, we sustain our Claims Group's denial of this expense.

As to the Federal Express fee, FTR paragraphs 2-6.2d(1) and (2) list miscellaneous items which are reimbursable and nonreimbursable, respectively. While a priority mail or delivery fee is not one of the items listed in FTR paragraph 2-6.2(d)(2) as nonreimbursable, it is not one of the reimbursable items listed in paragraph 2-6.2d(1)(a) through (e), either, nor does it qualify under paragraph 2-6.2d(f) as being similar in nature to those in (a) through (e) so as to permit reimbursement. See Edward W. Aikens, 63 Comp. Gen. 355 (1984). In addition, the expense would not qualify under paragraph 2-6.2f as an incidental charge since express

delivery of the loan application papers was not a "required service" as that term is used in that paragraph.

With regard to the ARM fee, Mr. Gregory explains that it is a standard fee charged to prepare an endorsement for a title insurance policy and required by a lender to document the lender's interest. On its face, an ARM fee would seem to be a finance charge and, thus, excluded from reimbursement under FTR para. 2-6.2d(2)(e). However, this fee does not appear to be a part of the chain of documentation which is required in order for a purchaser to obtain actual financing. It appears from the record that Mr. Gregory already had his ARM loan approved. The expense in question was an additional cost relating to the extra work required by the title company to document the details of the lender's interest by endorsement to the title insurance policy. In our decision in Ray F. Hunt, B-226271, Nov. 5, 1987, we approved reimbursement of an FHA document preparation fee required by the FHA for the purpose of documenting their interest after the loan was approved. In view of the similarity between the two, we conclude Mr. Gregory may be reimbursed the \$50 expense for the ARM fee.

Accordingly, we conclude that Mr. Gregory may be reimbursed an additional \$50 for the ARM endorsement preparation fee, but may not be reimbursed for the closing fee, nor the Federal Express fee.

for 
Comptroller General
of the United States