



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Nicholas Berg - Loan Origination Fee

File: B-229026

Date: August 8, 1988

DIGEST

A transferred employee claims reimbursement for a loan origination fee he paid on behalf of the buyer of his old duty station residence. Federal Travel Regulations authorize reimbursement in such cases only where the seller customarily pays the fee. Since it was the local custom here for the buyer to pay the loan origination fee, the agency's disallowance of the claim is sustained.

DECISION

This is in response to a request for an advance decision on the question of whether an employee of the United States Customs Service, incident to a permanent change of station, may be reimbursed a loan origination fee he paid as a seller on behalf of the buyer at his old duty station.^{1/} Where, as here, the claimant fails to show that loan origination fees are customarily paid by a seller in the locality of his old residence we sustain the agency's disallowance of his claim.

BACKGROUND

Mr. Berg relocated from Miami, Florida, to Albany, New York, pursuant to a permanent change of station. Mr. Berg's claim for relocation expenses included a loan origination

^{1/} The request was made by the U.S. Customs Service, Indianapolis, Indiana, by letter of September 1, 1987.

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fee he paid on behalf of the buyer of his old residence.^{2/} The agency disallowed the claim. Mr. Berg contends that he relied upon documents from his own agency and the Department of Housing and Urban Development (HUD) showing such expenses are reimbursable.

The issue is whether Mr. Berg has shown that such fees are customarily paid by sellers in the Miami, Florida, area. We find that he has not.

DISCUSSION

Under 5 U.S.C. § 5724(a)(4) (1982), an employee may be reimbursed for expenses incurred in selling a residence pursuant to a permanent change of station. The implementing regulations provide that loan origination fees are reimbursable only "if they are customarily paid by the seller of a residence at the old station." Federal Travel Regulations, para. 2.6.3(d) (Supp. 4, Aug. 23, 1972), incorp. by ref., 41 C.F.R. § 101-7.003 (1984).

The local HUD office informed the agency that the local custom in the area of Mr. Berg's old residence is for the buyer to pay the loan origination fee. The regulations state that the agency may seek the assistance of the local HUD office in making determinations regarding local customs. FTR, para. 2-6.3(c). We have held that information supplied by HUD creates a rebuttable presumption that controls in the absence of evidence overcoming that presumption. Gary A. Clark, B-213740, Feb. 15, 1984.

Although Mr. Berg notes that a HUD pamphlet indicates that sellers may pay the loan origination fee for the buyer, the guide does not indicate that is the custom. Mr. Berg asserts that his real estate salesperson indicated that it was "not unusual" for sellers to pay the loan origination fee. Even if taken as true, the statement does not indicate that it is customary for sellers to pay the fee.

Mr. Berg's argument that he had to pay the fee in order to close the sale of the residence does not justify reimbursement of the fee. Employees may not be reimbursed for losses

^{2/} The claim also included the cost of roof and termite inspections of his old residence. The agency has not requested a decision on these costs. Federal Travel Regulation, para. 2-6.2(b) authorizes reimbursement for incidental items related to the sale of the old duty station residence if such items customarily are paid by the seller.

incurred in the sale of the old residence due to market conditions. 5 U.S.C. § 5724a(a)(4); FTR, para. 2-6.2(e).

In the absence of evidence rebutting the information furnished by the local HUD office that the local custom in the area of Mr. Berg's old residence is for the buyer to pay the loan origination fee, we sustain the agency's disallowance of Mr. Berg's claim.

for 
Comptroller General
of the United States