



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Thomas L. Chapman - Real Estate Expenses -
Time Limitation

File: B-230880

Date: December 12, 1988

DIGEST

An employee, who reported to a new duty station effective on or about October 13, 1983, may not be reimbursed for the sale of his residence at his old duty station since settlement did not occur until October 31, 1986, more than 3 years after the date he reported to his new duty station. The 3-year time limitation imposed by the Federal Travel Regulations (FTR) has the force and effect of law and may not be waived in any individual case. The fact that the relocation expense authorization was not signed until November 1, 1983, has no effect on the starting date from which the 3-year time limitation is tolled, namely, the date that the employee reports to his new duty station as specifically provided under the FTR.

DECISION

This responds to a request for an advance decision by Paul R. Gentile, Financial Manager, Bureau of Alcohol, Tobacco and Firearms (ATF). He seeks an opinion on the propriety of reimbursing Thomas L. Chapman, a former employee of ATF, for real estate expenses incident to his transfer to a new official duty station. We conclude that he does not qualify for reimbursement of expenses incurred in the sale of his former residence since settlement did not occur until more than 3 years after the date he reported to his new duty station.

BACKGROUND

Mr. Chapman was transferred from Asheville, North Carolina, to Buffalo, New York, with a reporting date of September 25, 1983. He was granted some leave and, thus, arrived in Buffalo in the evening of October 12, 1983. While the record is not entirely clear as to the exact date he reported to his new official duty station, it appears that

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he reported either on October 12 or the following day, October 13. He had difficulty selling his home in Asheville, and he requested and was granted on September 17, 1985, a 1-year extension of the time period for which real estate expenses may be reimbursed. Since the initial 2-year time limitation would have expired October 13, 1985, the approved extension allowed him until October 13, 1986, to sell the house, 3 years from the date he reported for duty at his new official duty station. He was unable to finalize the sale of the house until October 31, 1986. The ATF authorized payment on his voucher on December 22, 1986, but shortly thereafter determined that the reimbursement was erroneous due to expiration of the 3-year time limitation for reimbursement of real estate expenses specified in the Federal Travel Regulations.

When ATF requested return of the check for the erroneous payment, Mr. Chapman refused, contending that since his relocation orders were not signed until November 1, 1983, the time limitation in the regulations should not have begun to run until then and would not have expired until November 1, 1986. He feels that this interpretation is required in view of other provisions in the regulations which require that a transfer must be authorized or approved to reimburse an employee for real estate expenses.

ANALYSIS

The authority to reimburse real estate expenses incurred by employees pursuant to transfers from one official duty station to another is contained in 5 U.S.C. § 5724a (1982), as implemented by paragraph 2-6.1e of the Federal Travel Regulations (FTR) (Supp. 4, August 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1982). Paragraph 2-6.1e of the FTR sets forth a 2-year time limitation for reimbursement of expenses incurred in connection with real estate transactions, which may be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year.

Concerning the triggering event for the running of the period, the regulations clearly state that it is the date that the employee "reported for duty at the new official station." FTR, para. 2-6.1e (Supp. 4, Aug. 23, 1982). See John J. Jennings, 63 Comp. Gen. 603, 606 (1984), and Michael W. Rolf, B-224906, Nov. 17, 1986.

The Federal Travel Regulations, implementing the statutory entitlement contained in 5 U.S.C. § 5724a, have the force and effect of law and may not be waived by this Office nor

by the agency concerned. See 49 Comp. Gen. 145 (1969). We have consistently held that there is no authority for the reimbursement of expenses incurred in connection with the sale or purchase of an employee's home, regardless of the extenuating circumstances involved, if the employee has failed to meet the applicable time limitation. See, Gregory McGruder, B-227587, Sept. 3, 1987; Jerald W. Duxbury, B-219222, Dec. 20, 1985; and Gabriel C. Brazao, B-188670, Jan. 3, 1978.

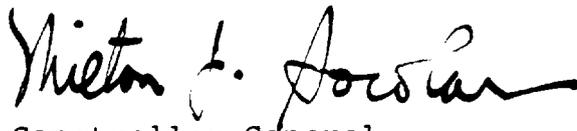
The record reveals that Mr. Chapman reported to his new duty station on October 12 or 13, 1983; therefore, his initial 2-year time limitation ended October 13, 1985, and the extension expired at the latest on October 13, 1986. However, settlement on the house did not take place until October 31, 1986, after the expiration of the 3-year time limit. Since Mr. Chapman failed to sell his residence within the 3-year period, his claim for reimbursement of real estate expenses must be denied.

Mr. Chapman argues that the regulations require that a transfer must be "authorized or approved" before relocation expenses are payable. FTR, para. 2-6.1a. In his case, however, it is clear that his transfer had been authorized prior to his reporting to his new duty station in Buffalo on or about October 13, 1983, and he was so advised in writing in several documents dated prior to that time, including a Notification of Personnel Action, SF-50, dated September 22, 1983. While his "Authorization for Moving Expenses" form was not completed until November 1, 1983, that form's approval date does not affect the running of the real estate expense reimbursement period. As noted previously, that period began when he reported at his new station on or about October 13, 1983, as specifically provided in the regulations. FTR, para. 2-6.1e, supra.

Accordingly, Mr. Chapman is not entitled to be reimbursed the expenses he incurred incident to the sale of his old residence since the 3-year period had expired prior to the settlement date.

Finally, although Mr. Chapman requested waiver of collection of the erroneous payment by letter of January 19, 1988, the Bureau has not submitted a report of investigation and recommendation to this Office as provided in 4 C.F.R. Part 92 (1988). If Mr. Chapman wishes to pursue his request for waiver, his request should be processed by the Bureau in

accordance with the procedures set forth in 4 C.F.R. Part 92
(1988).

for 
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