



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Howard C. Spraggins - Transfer of Duty Station - Real Estate Sale Expenses

File: B-258766

Date: February 10, 1995

DIGEST

Incident to a permanent change of station, an employee claims reimbursement for the real estate sales expenses incurred in the sale of his former family residence, although he had moved out of the residence 3 years previously when his marriage deteriorated, and he was living in an apartment, from which he commuted to work, at the time he first learned of his transfer. Under the Federal Travel Regulation, real estate sales expenses normally are reimbursable only for the residence from which the employee commutes to work at his official station. Although an exception is recognized where an employee, pending a divorce, involuntarily vacated the family residence pursuant to a court order, in the instant case, the employee did not vacate the residence pursuant to a court order, and at the time of the transfer, he had not lived in and commuted from the residence in 3 years, and he had been divorced for 2 years from his wife who had exclusive use of the residence. Therefore, the exception to the rule does not apply, and his claim is denied.

DECISION

This is in response to a request for a decision as to whether Special Agent Howard C. Spraggins of the U.S. Secret Service may be reimbursed for real estate expenses he claims incident to a change-of-station transfer in 1994 from Dallas, Texas, to Washington, D.C.¹ For the reasons explained below, the claim may not be paid.

Mr. Spraggins claims reimbursement for the real estate expenses incurred in the sale of the residence in Richardson, Texas, which he and his former wife jointly owned, but which he had not occupied since March 1990. He states that he moved out of that residence in 1990 due to the deterioration of his marriage, and he

¹The request for decision was submitted by the Chief, Relocation and Travel Services Branch, U.S. Secret Service, Washington, D.C. We also received and considered a letter submitted directly to us by Mr. Spraggins.

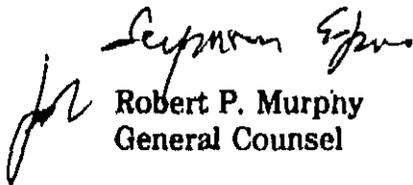
acknowledges that at the time he was first notified of his transfer in 1994 he was residing in and commuting to and from work from an apartment in Irving, Texas.

According to the record, the Spragginses' divorce became final in January 1992. Under the terms of the divorce decree, Mr. Spraggins's former spouse was entitled to exclusive use of the home in Richardson. The decree required Mr. Spraggins to continue the mortgage payments and his former spouse to make a monthly contribution to him toward those payments until the home was sold. The home was sold April 28, 1994, about 1 month after the agency notified Mr. Spraggins of his transfer.

The agency initially denied Mr. Spraggins's claim on the basis that real estate sales expenses normally are reimbursable only for the employee's residence, which is defined as "the residence or other quarters from which the employee commutes to and from work." Federal Travel Regulation, 41 C.F.R. §§ 302-6.1(d), and 402-1.4(k) (1994). However, Mr. Spraggins asserts his case falls within a limited exception to this rule we have recognized, as stated in our decision, Charles R. Holland, B-205891, July 19, 1982. In Holland, we allowed reimbursement for the real estate sales expenses of a residence involuntarily vacated by an employee pursuant to a court order pending a final divorce decree. We noted that the employee considered his absence from the residence to have been temporary. In that case, the court ordered the employee to vacate the residence by April 18, 1981; the employee learned of his transfer on July 23, 1981; the court issued the final divorce decree on August 26, 1981; and the home was sold on September 1, 1981.

Unlike the circumstances in Holland, Mr. Spraggins's absence from the residence was not the result of a court order barring him from the home pending divorce. As noted above, he states that he moved out of the residence in 1990 due to the deterioration of his marriage, and at the time he first learned of his transfer, he had not lived there for 3 years and had been divorced for over 2 years during which the residence was subject to the exclusive use of his former wife. Therefore, his absence could not be considered temporary.

Accordingly, the Richardson house does not qualify as Mr. Spraggins's residence for real estate expense reimbursement, and we affirm the agency's denial of the claim.


Robert P. Murphy
General Counsel