



Comptroller General

of the United States

Washington, D.C. 20548

Decision

Matter of: Rowan L. Peterson

File: B-260322

Date: August 15, 1995

DIGEST

An employee owned two residences, one near his official station in western Oregon and the other located in eastern Oregon. In mid-1990, he was detailed to eastern Oregon where he was in a nearly continuous travel status. He and his family moved out of their residence in western Oregon and moved into their residence in eastern Oregon from which he commuted to his various temporary duty locations 85 percent of the time and rarely traveled to his official station in western Oregon. After residing there for 1½ years, he was transferred to Carson, Washington, and claims real estate expenses for the sale of the residence in eastern Oregon. Since the employee was in a travel status a substantial majority of the time and the agency recognized that his official station was so designated for administrative purposes only during that time, the expenses of selling his eastern Oregon residence may be allowed. John W. Pitts, B-215012, Dec. 4, 1984.

DECISION

This decision responds to a request from an authorized certifying officer, U.S. Department of Agriculture (USDA),¹ concerning the entitlement of an employee to be reimbursed real estate expenses for the sale of a residence incident to a permanent change-of-station. We conclude that the allowable expenses incurred may be reimbursed, for the following reasons.

Mr. Rowan Peterson, an employee of the Forest Service stationed in Powers, Oregon (western Oregon), owned and occupied a residence at that location. He also owned a residence in Sunriver, Oregon (eastern Oregon). In the summer of 1990, Mr. Peterson's position was in jeopardy of elimination due to agency downsizing. As a result, he began accepting details in eastern Oregon. Because he was performing extended field duty in eastern Oregon, he moved his family to their Sunriver residence. The employee and his family resided at that location until they

¹Mr. Edward P. Darragh, File Code 6540.

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moved in June 1992, incident to his permanent change-of-station in December 1991, to the Gifford Pinchot National Forest near Carson, Washington. He claims the expenses of selling the Sunriver residence in June 1992.

Mr. Peterson commuted daily to and from temporary work sites in eastern Oregon from the Sunriver residence and was not paid per diem. On other occasions, he commuted from the temporary work sites to his Sunriver residence only on weekends. He was rarely required to travel to his official station in Powers, Oregon. The agency determined that from the summer of 1990 until he was transferred to the Gifford Pinchot National Forest, Mr. Peterson spent 85 percent of his time on temporary work details in eastern Oregon. The Forest Service states that its intent was to relocate Mr. Peterson, but retained Powers, Oregon, as his designated duty station for administrative convenience until a permanent reassignment could be found.

In December 1991, Mr. Peterson transferred to the Wind River Ranger Station, Gifford Pinchot National Forest, Carson, Washington. For the first 6 months, Mr. Peterson lived in temporary government quarters. In June 1992, after their children were out of school, Mr. and Mrs. Peterson decided to purchase a residence at his new permanent duty station. They sold their Sunriver residence on June 19, 1992, and submitted a claim voucher for reimbursement of the real estate sales expenses incurred.

The Nation Finance Center (NFC) of the USDA disallowed payment because Mr. Peterson was not in a travel status at least 90 percent of the time, citing to our decision Billy L. Kenney, B-188706, Dec. 14, 1978. Both the Forest Service and Mr. Peterson have appealed the NFC disallowance to this Office.

Section 5724a(a)(4) of title 5, United States Code (1988), authorizes reimbursement of residence sales expenses of the employee at the old station. Section 302-1.4(k) of the Federal Travel Regulation (FTR),² defines "official station" to include the residence from which the employee regularly commutes to and from work. Thus, the general rule is that an employee may only be reimbursed for the expenses incurred in selling the residence from which he daily commuted to his old duty station.

We have, however, considered a number of cases in which the employee is constantly in a travel status and lives at a location away from his official station, more central to the area of his travel. We have held that where an employee has no single, true official station, but only a place so designated for administrative purposes, he may be reimbursed the expenses of selling his home, since it is

²41 C.F.R. § 302-1.4(k) (1994).

impossible for the employee to commute regularly to the official station from there.³

For example, in decision Billy L. Kenney, supra, we factually recognized that the employee was in a travel status away from his official station more than 90 percent of the time and in decision Robert A. Van Winkle, cited therein, the travel status was nearly 100 percent of the time. The principal factor in determining whether an employee is in a constant travel status is whether the employee regularly reports to his official duty station. The issue in such cases is whether the employee's permanent residence is in the vicinity of or closer to his temporary duty area than to his official station and whether the employee commutes to work from that residence the substantial majority of the time, rather than to his official station. The precise percentage of time is not the controlling factor.

In the present case, the agency states that, after mid-1990, Mr. Peterson was in a travel status in eastern Oregon a substantial majority of the time and confirms that he and his family resided in the Sunriver residence during this time. Since he rarely reported to the Powers, Oregon, office between then and his transfer to the Gifford Pinchot National Forest in December 1991, the agency considered that office to be his official station only for administrative purposes.

Therefore, allowable real estate sales expenses claimed may be paid.

/s/Seymour Efros
for Robert P. Murphy
General Counsel

³John W. Pitts, B-215012, Dec. 4, 1984, citing to Robert A. Van Winkle, B-184004, Apr. 27, 1976; and Billy L. Kenney, supra. Cf. Stanley H. Fretwell, B-186185, Nov. 15, 1976, in which we denied reimbursement for the purchase of a residence which was found to have no reasonable relation to either his new official duty station or the area of his temporary duty.