

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

FILE:

B-183195

DATE:

JUN 1

1976

U98876

MATTER OF:

Karen P. Galloway -- Claim for relocation expenses
incurred during permanent change of duty station

DIGEST:

1. Employee, pursuant to permanent change of duty station, shipped her mobile home to new duty station and used it as her residence for 4 months before purchasing a new residence. Our Office has not approved reimbursement for expenses in purchasing new residence absent unusual circumstances where mobile home could not be used as residence at new duty station.
2. Employee, pursuant to permanent change of duty station, shipped her mobile home to new duty station and used it as her residence for 4 months before purchasing new residence and selling mobile home. Reimbursement for brokerage fee for selling mobile home is disallowed since statute and regulations allow for reimbursement for sale of one residence only at old duty station.
3. Employee, pursuant to permanent change of duty station, claims miscellaneous expenses: Reimbursement is disallowed for repairs to hot water heater, purchase of tires for mobile home, and rental of tow bar for second automobile since these expenses are not authorized under Section 3 of OMB Circular No. A-56. Claim for rental of U-Haul to transport mobile home heating unit is denied since reimbursement for shipment of mobile home is in lieu of reimbursement for transportation of household goods (including appliances).

This action is a reconsideration of the settlement issued by our Transportation and Claims Division (now Claims Division) on August 22, 1975, of the claim of Mrs. Karen P. Galloway for expenses incurred pursuant to a permanent change of duty station.

The record indicates that Mrs. Galloway, an employee of the Social Security Administration, Department of Health, Education, and Welfare, was transferred from Newport News, Virginia, to Arlington, Virginia, and was authorized reimbursement for shipment of her mobile

home by commercial carrier. The employee shipped her mobile home to her new duty station and reported for duty on May 1, 1972. The record indicates further that Mrs. Galloway lived in her mobile home at her new duty station until September 1972, when she sold her mobile home and purchased a new residence. The employee was reimbursed by her employing agency for travel, per diem, temporary quarters, and \$200 for miscellaneous expenses. The agency deferred on paying expenses incident to the purchase of the new residence pending additional documentation, but it disallowed reimbursement for the shipment of her mobile home and for related miscellaneous expenses on the grounds that under the regulations governing travel and transportation these costs are allowable only when the mobile home is to be used as a permanent residence at the new duty station.

Mrs. Galloway filed a supplemental voucher for the cost of shipping her mobile home, miscellaneous expenses, expenses incident to purchasing a new residence, and the brokerage fee for the sale of her mobile home. The employee explained that she had not intended to move her mobile home from her old duty station but that she did so because there was not sufficient time in which to sell it prior to reporting for duty at her new duty station. The agency now reimbursed Mrs. Galloway for the settlement costs on her new residence (\$373.80) and for the brokerage fee on the sale of her mobile home (\$800), or a total of \$1473.80. The agency allowed the brokerage fee on the basis that Mrs. Galloway had no intention of using the mobile home as a permanent residence and would have incurred the expense upon selling it at her old duty station. However, the agency sustained the disallowance of the cost of transporting the mobile home (\$187.50) and related miscellaneous expenses (\$406.45). Mrs. Galloway submitted a reclaim voucher for settlement by the General Accounting Office for the latter two items which total \$593.95.

The Settlement Certificate issued by our Claims Division on August 22, 1975, held that payment of the costs for the purchase of a new residence and for the sale of the mobile home (a total of \$1473.80) was erroneous. Reimbursement for the costs incurred in purchasing a new residence was denied on the grounds that such reimbursement is not authorized under the appropriate regulations when the employee transported her mobile home for use as a residence. The brokerage fee for the sale of the mobile home was disallowed on the basis that the regulations authorize reimbursement for the sale of a residence only at the old duty station. However, the Settlement Certificate stated further that the employee was entitled to the cost of transporting her mobile home (\$187.50) and various miscellaneous

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expenses (\$434.73 less \$200 previously paid). The Claims Division disallowed the following miscellaneous expenses:

repairs to hot water heater damaged in transit	\$ 17.07
rental of U-Haul to transport heating unit	21.15
rental of tow bar to transport additional automobile	5.20
purchase of tires for mobile home	<u>128.30</u>
	\$171.72

The Settlement Certificate concluded that Mrs. Galloway was entitled to \$422.23, less \$46.95 for Federal withholding tax, or \$375.28. Mrs. Galloway had been reimbursed \$1473.80 for the purchase of a new residence and the sale of the mobile home, thus leaving a balance due to the United States of \$1098.52. Mrs. Galloway has requested reconsideration of the Claims Division settlement.

The authority for payment of the cost of transporting an employee's "house trailer or mobile dwelling" incident to a permanent change of duty station is contained in 5 U.S.C. 5724 (b) (1970) which provides, in pertinent part that:

"(b) Under such regulations as the President may prescribe, an employee who transports a house trailer or mobile dwelling inside the continental United States, inside Alaska, or between the continental United States and Alaska, for use as a residence, and who otherwise would be entitled to transportation of household goods and personal effects under subsection (a) of this section, is entitled, instead of that transportation, to-- * * *

"(2) commercial transportation of the house trailer or mobile dwelling, at Government expense, or reimbursement to the employee therefor, including the payment of necessary tolls, charges, and permit fees, if the trailer or dwelling is not transported by the employee.

However, payment under this subsection may not exceed the maximum payment to which the employee otherwise would be entitled under subsection (a) of this section for transportation and temporary storage of his household goods and personal effects in connection with this transfer."

Section 5724a of title 5, United States Code, provides for the payment of real estate expenses incurred pursuant to a permanent change of duty station as follows:

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724 (a) of this title:

* * * * *

"(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a house at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. However, reimbursement for brokerage fees on the sale of the residence and other expenses under this paragraph may not exceed those customarily charged in the locality where the residence is located, and reimbursement may not be made for losses on the sale of the residence. This paragraph applies regardless of whether title to the residence or the unexpired lease is in the name of the employee alone, in the joint names of the employee and a member of his immediate family, or in the name of a member of his immediate family alone."

The regulations governing these allowances in effect at the time of Mrs. Calloway's transfer were contained in Office of Management and Budget (OMB) Circular No. A-56, revised August 17, 1971. Section 9 of those regulations regarding the transportation of house trailers provided, in pertinent part that:

"9.1 Eligibility and limitations

"a. Eligibility. An employee who is entitled to transportation of his household goods under these regulations shall, in lieu of such transportation, be entitled to an allowance, as provided in this section, for the transportation of a mobile home for use as a residence. In order to be eligible for the allowance, the employee shall certify in a manner prescribed by the head of the agency that the mobile home is for use as a residence for the employee and/or his immediate family at the destination. If an employee is not eligible to receive an allowance for movement of his mobile home he may be eligible to receive an allowance based on the transportation of his household goods under the provisions of section 6.

* * * * *

"c. Relationship to other allowances. Allowances for transportation of mobile homes (including mileage when towed by employee) are in addition to payment of per diem, mileage, and transportation expenses for employees and their immediate families, as provided in section 2. However, the fact that a mobile home may be moved at Government expense only if the employee certifies that it is to be used as a residence at the destination should be considered in determining allowances to be paid under sections 4 (Residence transactions), 7 (House hunting trips), and 8 (Subsistence while occupying temporary quarters)."

The administrative report states that there is no record that the employee certified that she intended to use her mobile home as her permanent residence at the new official duty station, as required by the above-cited regulation. However, despite the absence of the required certification the agency authorized shipment of the mobile home, the employee moved her mobile home, and, most importantly, she resided in her mobile home at the new duty station approximately 4 months until she purchased a new residence. Our decisions have approved reimbursement for a new residence after the employee

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transported a mobile home only under the unusual circumstances where the mobile home could not be used as a residence at the new duty station due to circumstances beyond the employee's control. B-168123, December 9, 1969. In the present case the employee chose to move her mobile home to her new duty station and use it as her residence, and, therefore, we see no reason to allow the employee reimbursement for her expenses in purchasing a new residence at her new duty station. Mrs. Galloway argues that she did not have adequate time to sell her mobile home at her old duty station, but that does not afford a basis upon which she may be reimbursed these expenses.

The employee has also claimed brokerage fees incurred in selling her mobile home at her new duty station. Section 4 of OMB Circular No. A-56 provides, in pertinent part:

"4.1 Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government will reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station; purchase (including construction) of one dwelling at his new official station; or the settlement of an unexpired lease involving his residence or a lot on which a house trailer used as his residence was located at the old official station * * *",

The language of the statute and regulation specifically states that an employee may recover expenses required to be paid in connection with the sale of one residence at the employee's old official station. Because Mrs. Galloway sold her mobile home at her new official station, she may not recover the broker's fee. B-163856, April 30, 1968.

Finally, our Claims Division disallowed several items (enumerated above) which were claimed as miscellaneous expenses. Reimbursement for repairs to a hot water heater damaged in transit is disallowed under paragraph 3.1c (13) of OMB Circular No. A-56, while the cost of tires for the mobile home is disallowed under paragraph 3.1c (5). The expense incurred for rental of a U-Haul to transport the mobile home's heating unit is not reimbursable since reimbursement for the transportation of a mobile home is in lieu of reimbursement for the transportation of household goods (including appliances). B-184891, November 26, 1975; B-179146, September 28, 1973. Reimbursement for the rental of a tow bar to transport a private automobile "stored on mobile home lot" is

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not allowable since there is no authority under Section 3 to allow it as a miscellaneous expense and shipment of the automobile was not authorized under Section 10.

Accordingly, the action of our Transportation and Claims Division (now Claims Division) is sustained.

R. F. KELLER

Deputy } Comptroller General
of the United States