

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

60296

FILE: B-184798

DATE: DEC 11 1975

97600

MATTER OF: Reimbursement of relocation expenses incident
to permanent change of station

DIGEST: Employee, transferred from Madison to Bushnell, Florida, claims reimbursement for \$275 paid as attorney's fee in lieu of closing costs in connection with purchase of residence at new duty station. Reimbursement is not allowed since FTR para. 2-6.2(c) does not authorize payment of attorney's fee in lieu of closing costs and amount in question includes legal costs for which payment is not authorized under the above-cited FTR paragraph.

This action is in response to a letter dated August 13, 1975, with enclosures, from Mr. Orris C. Huet, Authorized Certifying Officer, United States Department of Agriculture, requesting an advance decision as to whether a reclaim voucher in the amount of \$275, in favor of Mr. Johnnie Hill, Jr., an employee of the Department of Agriculture, may be certified for payment.

The record indicates that under Travel Authorization No. 09005, dated August 3, 1975, Mr. Hill effected a change of official duty station from Madison to Bushnell, Florida. In connection with this transfer it is stated that Mr. Hill purchased a residence at his new duty station. Mr. Hill was reimbursed by his agency for \$896.11 in relocation costs, including closing costs.

Mr. Hill's claim for reimbursement of \$275 paid by him as attorney's fee in connection with the purchase of the residence at his new duty station was suspended from payment for the reason that it was not supported by a statement containing a breakdown of the charges included within that category.

In reply to a request for an itemized statement, Mr. Hill submitted a \$275 reclaim voucher and a letter, both dated May 30, 1975, and both containing statements further explaining this fee. The reclaim voucher contained a statement by Mr. Hill indicating that the \$275 for which reimbursement was sought represented an attorney's fee for stopping foreclosure on property bought in lieu of closing costs. An almost identical statement was contained in the letter of the same date where it was stated:

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"In lieu of closing cost the amount of \$275.00 was paid to the attorney for his fee in stopping the Foreclosure of the property so that I could assume the mortgage. This amount was paid by me at the loan closing."

By letter dated June 27, 1975, Mr. Hill was informed by the United States Department of Agriculture, National Finance Center, that his reclaim voucher in the amount of \$275 was being returned as it appeared the attorney's fee pertained to litigation.

The request for a breakdown of those charges included as attorney's fee is necessitated by the fact that Federal Travel Regulations (FPMR 101-7) para. 2-6.2(c) (May 1973), in authorizing reimbursement of attorney's fees in connection with the sale or purchase of a house, specify when and under what circumstances reimbursement is to take place. FTR para. 2-6.2(c) (May 1973) provides as follows:

"c. Legal and related costs. To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, the following expenses are reimbursable with respect to the sale and purchase of residences if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence; costs of (1) searching title, preparing abstract, and legal fees for a title opinion, or (2) where customarily furnished by the seller, the cost of a title insurance policy; costs of preparing conveyances, other instruments, and contracts; related notary fees and recording fees; costs of making surveys, preparing drawings or plats when required for legal or financing purposes; and similar expenses. Costs of litigation are not reimbursable."

With regard to reimbursement of attorney's fees, we have held that FTR para. 2-6.2(c) (May 1973) does not authorize reimbursement of fees charged by an attorney for representing and counseling an employee with respect to a real estate transaction. 48 Comp. Gen. 469 (1969). It has also been held that where a legal fee includes amounts for legal representation and counseling the full amount of the fee is not reimbursable.

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Only those parts of an attorney's fee that represent services of the types enumerated in FTR para. 2-6.2(c) (May 1973) are reimbursable. B-169621, June 25, 1970.

The agency disallowed Mr. Hill's claim for reimbursement of \$275 in attorney's fees on the grounds this amount was for litigation purposes. While the record indicates that service of process was made in connection with stopping foreclosure on the property purchased by Mr. Hill, it is not established on the record that the \$275 attorney's fee actually represents litigation costs. However, the statements, already referred to, made by Mr. Hill make it apparent that this item includes legal representation for which reimbursement is not authorized by FTR para. 2-6.2(c) (May 1973). In addition, that paragraph does not authorize payment of attorney's fees in lieu of closing costs.

Whether the amount claimed by Mr. Hill as attorney's fees includes any charges made by his attorney that would be reimbursable under FTR para. 2-6.2(c) (May 1973) is not made clear. Since Mr. Hill has provided no breakdown of items to permit a determination of those that may be allowable, no part of the \$275 may be allowed.

In view of the foregoing, the voucher which is returned may not be certified for payment.

R.F. KELLER

Deputy

Comptroller General
of the United States