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Susan Caplan  
Civ. Pers.

**DECISION**



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

**FILE: B-186763**

**DATE: March 28, 1977**

**MATTER OF: Samuel V. Britt - Relocation expenses**

- DIGEST:**
1. Request by claimant's attorney for adversary hearing for purpose of challenging and confronting adverse witness is denied because General Accounting Office is not vested with authority to hold adversary hearings for purpose of obtaining sworn testimony and therefore decisions of Comptroller General must be made upon evidence in written record.
  2. Decision disallowing claim for real estate expenses incurred prior to claimant's official transfer is affirmed since agency has determined that expenses were incurred before agency intended to transfer claimant.

This action is in response to a request by an attorney representing Mr. Samuel V. Britt for reconsideration of our decision B-186763, October 6, 1976, in which we disallowed Mr. Britt's claim for reimbursement of expenses incurred in selling his residence in St. Thomas, Virgin Islands, prior to his transfer to St. Croix, Virgin Islands, as an employee of the Office of the U.S. Government Comptroller for the Virgin Islands, Department of the Interior. Mr. Britt's claim was disallowed because the agency had not determined that the sale was incident to Mr. Britt's subsequent transfer and there was no fixed intention to transfer Mr. Britt clearly evident at the time he sold his residence.

Mr. Britt's attorney claims that we have denied Mr. Britt due process of law by basing our decision on the information contained in a memorandum by Mr. Donald Moysey, former U.S. Government Comptroller for the Virgin Islands. Mr. Britt's counsel claims that he never received a copy of the memorandum and therefore Mr. Britt was denied the opportunity to contradict it. The Department of Interior claims that all the material upon which its decision was based, which later was forwarded here, was made available to Mr. Britt's attorney.

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We have forwarded a copy of the memorandum in question to Mr. Britt's counsel; he has also examined Mr. Britt's file at our Office. In response, Mr. Britt has submitted an affidavit refuting the statements made in the memorandum. However, we have been informed by the Department of Interior that Mr. Moysey reaffirms the original statements made in his memorandum.

When a factual dispute arises in determining the allowance of a claim, this Office accepts the administrative determination as accurately reflecting the disputed facts in the absence of sufficiently convincing contrary evidence. 46 Comp. Gen. 740, 744 (1967); 41 Comp. Gen. 47, 54 (1961). In this regard, Mr. Britt's attorney has requested an opportunity to challenge opposing factual and legal contentions in a hearing at this Office. A conference was held in this Office on December 20, 1976, wherein Mr. Britt's counsel had an opportunity to discuss the issues with representatives of this Office and the Department of the Interior. However, we have no authority to grant Mr. Britt's counsel the opportunity to challenge and confront adverse witnesses as he has requested, since we are not vested with authority to hold adversary hearings for the purpose of obtaining sworn testimony and therefore our decisions are based on the information contained in the written record with the presumption that the administrative report is accurate. 53 Comp. Gen. 824, 828 (1974).

Subsequent to the issuance of our decision of October 6, 1976, B-186763, Mr. Britt's attorney wrote directly to the Department of Interior and requested that it make the determination deemed necessary by our Office for the allowance of Mr. Britt's claim. Interior refused to make such a determination and stated, by letter dated December 7, 1976, in pertinent part:

"This agency had no intention to transfer Mr. Britt at the time the expenses were incurred and the Department of the Interior did not determine that the sale was incident to Mr. Britt's transfer. Furthermore, these types of determinations are made prior to the transfer and not retroactive. Therefore, there is no further determination that the Department of the Interior can or will make on this case."

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Since the Federal Travel Regulations (PPMR 101-7) para. 2-1.5b (May 1973) give the agency broad authority to determine whether relocation expenses are incurred incident to a change of official station, this Office will not disturb Interior's determination that the relocation expenses in question were incurred before Interior intended to transfer Mr. Britt.

Accordingly, our decision of October 6, 1976, is affirmed.

Mr. Britt's counsel has also requested that Mr. Britt be reimbursed for attorney's fees expended in pursuit of this claim. The employment and payment of an attorney in pursuit of a claim against the Government is a matter between the claimant and the attorney and, in the absence of express statutory authority authorizing an allowance for the payment of an attorney's fee, reimbursement is not permissible. 52 Comp. Gen. 859 (1973). We are unaware of any statutory authority under which Mr. Britt's claim for attorney fees is payable.

Deputy

  
Comptroller General  
of the United States