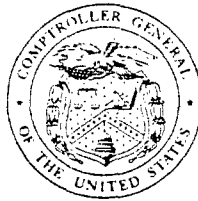


DECISION



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

10, 207

FILE: B-193602

DATE: May 16, 1979

MATTER OF: William R. Walberg - [Relocation, Real Estate Expenses, Time Limitation]

DIGEST: Transferred employee reported to new duty station on May 4, 1976. He purchased a residence there with settlement on May 5, 1978. He is not entitled to reimbursement of real estate expenses since applicable regulations limit maximum time for settlement to within 2 years. Error of agency in extending initial year to May 5, 1978, provides no authority to modify statutory regulations.

ISSUE DECIDED

It is determined here that an error of 1 day made by an agency in granting a 1-year extension of the time limitation for the purchase of a residence incident to a permanent change of duty station provides no authority to reimburse real estate expenses where settlement occurs on such day.

FACTS

Mr. William R. Walberg, an employee of the Department of the Army, was transferred from Fort Lee, Virginia, to Fort Ritchie, Maryland, under travel authorization approved April 2, 1976. The record shows that he traveled on May 3, 1976, and reported for duty May 4, 1976. The agency granted the employee a 1-year extension of the time limit allowed to complete the purchase of a residence at his new duty station. The agency, in error, stated that all transactions were to be completed by May 5, 1978, whereas they should have made it clear that all transactions were to be completed by May 4 or before May 5. The employee signed a real estate contract on April 16, 1978, for the purchase of a residence. Settlement occurred on May 5, 1978.

The employee's claim for real estate expenses has been denied administratively and by our Claims Division on the ground settlement occurred after expiration of the maximum entitlement period. We have been asked to review the disallowance.

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OPINION

Chapter 2 of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973), which are issued by the General Services Administration, govern the entitlements of civilian employees of the Federal Government to relocation allowances. Para. 2-6.1 provides for reimbursing an employee for the expenses of selling a residence at his old official station and of purchasing a residence at his new station. However, para. 2-6.1(e) of the FTR imposes a time limitation on such sales and purchases, as follows:

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

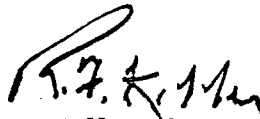
Issued pursuant to 5 U.S.C. § 5724a (1976) which contains the authority for reimbursement of real estate expenses, these regulations have the force and effect of law and may not be waived by any department of the Government in an individual case. See B-189898, November 3, 1977. Similar provisions are contained in paragraph C14000-2 of Volume 2 of the Joint Travel Regulations (JTR) relating to reimbursement of relocation allowances of civilian employees of the Department of Defense.

The FTR and JTR clearly provide that the settlement date on a residence transaction must occur not later than 2 years after the date on which the employee reported for duty at his new station. Agency officials have no authority to grant an exception to that requirement. Thus, since Mr. Walberg reported for duty on May 4, 1976, the maximum period within which his settlement had to occur was May 4, 1978. It is unfortunate that he was misinformed, but it

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is a well-established rule of law that the Government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees, even though committed in the performance of their official duties. See 56 Comp. Gen. 943, 949 (1977) and cases cited therein.

Accordingly, the disallowance of Mr. Walberg's claim by our Claims Division on September 26, 1978, is sustained.



Deputy Comptroller General
of the United States