PLM-II

DECISION

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

9376

FILE: B-193607

DATE: March 8, 1979

MATTER OF: Krim M. Ballentine - Real Estate Expenses - Settlement Date Limitation on Reimbursement for

DIGEST: Employee who transferred from Cleveland, Ohio, to St. Thomas, U.S. Virgin Islands, is not entitled to reimbursement for real estate expenses incurred in connection with the sale of his home at old duty station since settlement did not occur within 2 years of date on which employee reported to new duty station as required by FTR para. 2-6.1e, which regulation has force and effect of law and may not be waived in any individual case.

This action is in response to a letter dated October 19, 1978, from Mr. Krim M. Ballentine, Chief Deputy U.S. Marshal, Eastern District of Michigan, requesting reconsideration of our Claims Division settlement dated September 26, 1978, disallowing his claim for reimbursement of real estate expenses in connection with the sale of his residence more than 3 years after his transfer to a new official duty station.

In June 1973, Mr. Ballentine was transferred from Cleveland, Ohio, to St. Thomas, U.S. Virgin Islands, reporting to his new official station on or about June 10. He was unable to sell his house at his old duty station until July 17, 1976, when settlement occurred. Due to his difficulty in selling the house, he had requested and was granted a 1-year extension of the time limit for which real estate expenses may be reimbursed. Since the initial year would have expired June 10, 1974, the approved extension carried through until June 10, 1975, 2 years from the date he reported for duty at his new official station.

In his claim, Mr. Ballentine asserts that difficulties with prospective purchasers securing financing in a changing neighborhood, stringent mortgage requirements, etc., prevented the sale of his house within the 2-year period. However, since settlement for the sale of the house in Cleveland Heights was on July 17, 1976, more than 3 years after his original transfer, and more than 1 year after the extension expiration, his claim was administratively denied, and then disallowed by our Claims Division settlement of September 26, 1978.

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It is well settled that no additional extension of time, beyond the 2-year limit, may be granted. The regulations governing time limitations on residence transactions are contained in paragraph 2-6.le of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) which provide as follows:

> "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."

Because Mr. Ballentine failed to meet the 2-year time limitation, there is no authority for the reimbursement of expenses incurred in connection with the sale of his home, regardless of the extenuating circumstances involved. See Matter of Gabriel C. Brazao, B-188670, January 3, 1978, and Matter of Michael J. Mahoney, B-189043, July 1, 1977. Moreover, since the time limitation regulations involved were issued pursuant to 5 U.S.C. 5724a(a)(4) (1976), they have the force and effect of law and, therefore, cannot be modified by this Office, nor by the agency concerned. 49 Comp. Gen. 145, 147 (1969).

Accordingly, the action taken by our Claims Division in disallowing Mr. Ballentine's claim is sustained.

R.F. Keller

Deputy Comptroller General
of the United States