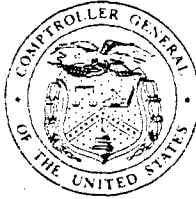


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**DECISION**



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

FILE: B-195556

DATE: February 19, 1980

MATTER OF: Alister L. McCoy

**DIGEST:**

1. Air Force employee was transferred from Robins Air Force Base (AFB), Georgia, to St. Louis, Missouri, and then to Wright-Patterson AFB, Ohio. Although he signed agreement to accept reassignment to Robins AFB at end of 3 years or when need for his services was greater there he is not entitled to reimbursement of real estate expenses incurred incident to the sale of his Georgia residence. His permanent duty station was St. Louis at time of second transfer, residence was not there, and residence was sold more than 2 years after transfer to St. Louis.
2. Air Force employee was transferred from Robins Air Force Base (AFB) to St. Louis, Missouri, and then to Wright-Patterson AFB, Ohio. Although he did not relocate family to St. Louis because he signed agreement to return to Robins AFB at end of 3 years or when need for his services was greater there, he is entitled only to constructive cost of transportation of dependents and household goods from Missouri to Ohio because transfer to Missouri was permanent, transportation took place more than 2 years after transfer to Missouri, and entitlement is under travel order authorizing transportation to Ohio.

This action is in response to an appeal by Mr. Alister L. McCoy from our Claims Division's settlement certificate dated February 13, 1979, which disallowed his claim for reimbursement of certain relocation expenses.

The record shows that Mr. McCoy, an employee of the Department of the Air Force, was transferred from Warner Robins Air Logistics

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Center, Robins Air Force Base (AFB), Georgia, to the McDonnell-Douglas plant in St. Louis, Missouri, as a member of the Resident Provisioning Team. In connection with this transfer, by orders dated January 21, 1975, Mr. McCoy was authorized reimbursement for permanent change of station expenses. His orders show his reporting date at the new station as February 3, 1975.

Mr. McCoy, however, did not sell his home in Georgia, nor did he move his family to Missouri. He states that he made this decision because he was required to sign an agreement to accept reassignment to Georgia whenever his services were needed or after a period not to exceed 3 years from the effective date of his assignment. The agreement also provided that action proposing separation might be initiated if he failed to accept reassignment. In addition, Mr. McCoy states that he was informally advised that his tour of duty in St. Louis would probably not last longer than a year.

In April 1977 Mr. McCoy applied for and accepted a position at Wright-Patterson AFB, Ohio. By orders dated May 25, 1977, he was authorized reimbursement for permanent change of station expenses. Mr. McCoy sold his home in Warner Robins, Georgia, on August 6, 1977, and he and his wife moved to Centerville, Ohio. Officials at Wright-Patterson Air Force Base denied Mr. McCoy's claim for the expenses associated with the sale of his home in Georgia and only reimbursed him for what it would have cost him for his wife's travel and the shipment of his household goods from St. Louis to Wright-Patterson AFB. Our Claims Division stated that the Air Force correctly applied various provisions of the Joint Travel Regulations (JTR) in disallowing Mr. McCoy's claim.

Paragraph 14000-2 (change 138 (April 1, 1977)), Volume 2 Joint Travel Regulations, which was in effect at the time of Mr. McCoy's second transfer provided as follows:

"2. TIME LIMITATIONS ON RESIDENCE OR LEASE TERMINATION TRANSACTIONS. Except as provided herein, the settlement dates for the sale and purchase of a residence or lease termination transaction for which reimbursement is requested must be not later than 1 year after the date on which the employee reported for duty at the new permanent duty station. The year begins with the day following the date the employee reports for duty and ends on the date of the first anniversary. However, this time limitation may be extended, regardless of

the reasons, by the commanding officer of the activity bearing the cost, or his designee, for not more than 1 additional year, provided it is determined that the particular residence transaction is reasonably related to the permanent change of station. The employee must submit a written request for such extension within 2 years after the date of reporting for duty at the new permanent duty station. A copy of the determination approving the extension must support the employee's request for reimbursement."

The same provision, with minor variations, was in effect at the time of Mr. McCoy's first transfer. See 2 JTR para. C8350-2 (change 91, May 1, 1973).

Mr. McCoy argues that the 2-year limitation should not apply to his move from Missouri through Georgia to Ohio, but that a new 2-year period started when he was transferred for the second time. Although a new 2-year period for reimbursement of certain expenses began to run at the time of Mr. McCoy's second transfer, that does not entitle him to reimbursement for the expenses of selling his home in Georgia. Paragraph C14000-1.6, of 2 JTR (change 138, 4/1/77) provides in pertinent part:

"1. CONDITIONS. An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station; the purchase (including construction) of a residence at his new duty station; or in connection with the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at his old duty station, after he had signed the required transportation agreement and provided that:

\* \* \* \* \*

"6. the residence or dwelling is the residence (which may be a mobile home and the lot on which such mobile home is located or will be located) from which the employee regularly commutes to and from work, except that when the duty station is in a remote area where adequate family housing

is not available within reasonable commuting distance, then a residence will be considered to include the dwelling where the dependents of the employee reside or will reside, but only if such residence reasonably relates to the permanent duty station as determined by the travel-approving official concerned."

This regulation is based on paragraph 2-6.1 of the Federal Travel Regulations (FTR) (May 1973), which are issued by the General Services Administration (GSA), and govern the entitlements of all civilian employees of the Federal Government. Paragraph 2-6.1 provides in pertinent part as follows:

"2-6.1. Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station, for purchase (including construction) of one dwelling at his new official station, or for the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station; Provided, That:

\* \* \* \* \*

"b. Location and type of residence. The residence or dwelling is the residence as described in 2-1.4i, which may be a mobile home and/or the lot on which such mobile home is located or will be located."

Paragraph 2-1.4 provides:

"Official station or post of duty. The building or other place where the officer or employee regularly reports for duty. (For eligibility for change of station allowances, see 2-1.3 and 2-1.5b.) With respect to entitlement under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the

employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

Issued pursuant to 5 U.S.C. 5724a (1970) 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.

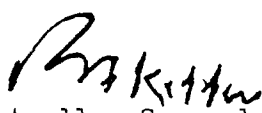
It has been consistently held that an employee's official or permanent duty station is the place at which he actually is stationed; that is, the place where the employee expects and is expected to spend the greater part of his time. 31 Comp. Gen. 87 (1952). In the instant case Mr. McCoy was transferred to St. Louis for a period of 3 years unless the need for his services was greater at Robins AFB. He was expected to perform the greater part of his duties at St. Louis and actually did so for a period of more than 2 years. In this connection he was issued a travel order authorizing him relocation expenses. Under such circumstances it is apparent that his permanent duty station at the time of his transfer to Wright-Patterson AFB was St. Louis. The fact that Warner Robins Air Force Logistics Center issued his travel order in 1977 does not change his official duty station since the Center was merely his administrative headquarters. Also, the travel order shows that his duty station was St. Louis. Although Mr. McCoy did save the Government some expense by not relocating his family, this fact does not affect his entitlement. The regulations require that the residence sold be at the employee's official station at the time of transfer. Since the residence sold by Mr. McCoy in 1977 was not at St. Louis at the time of his transfer to Wright-Patterson AFB, his real estate expenses may not be reimbursed under his 1977 travel order. Moreover, as he did not sell his Georgia residence within 2 years of his transfer to St. Louis, he is not entitled to reimbursement of real estate expenses under his 1975 travel order.

Reimbursement for transportation of dependents and shipment of household goods is also subject to a time limitation. Paragraph C7001-6 (change 131, September 1, 1976) and paragraph C8002-8 (September 1, 1976) provide that all transportation authorized for dependents and all shipment of household goods must begin within 2 years from the date the employee reports for duty at the new duty station. The JTR does recognize and make provision for situations where an employee is required to make successive changes of station. In this regard, paragraph C4106 (change 138, April 1, 1977) provides that:

"1. ENTITLEMENT LIMITATION. When there are successive permanent changes of station and movement of dependents and/or household goods is delayed until transfer to the last station, movement is allowed by the usual direct route between the first and last official station, provided the 2-year time limitation under the authorization for the first transfer has not expired. If the 2-year time limitation has expired with regard to the transfer from the first duty station, entitlement is limited to that from a subsequent duty station, where the 2-year time limitation has not expired, to the last duty station.

Since more than 2 years elapsed between Mr. McCoy's transfer to St. Louis, he is not entitled to reimbursement for the full cost of his dependents' travel and the shipment of his household goods from Georgia to Ohio. Rather, he was properly reimbursed those expenses on the basis of the constructive cost of travel and transportation from St. Louis to Wright-Patterson AFB as authorized in his 1977 travel order.

Mr. McCoy also argues that he should be granted reimbursement because the regulations fail to provide for an unusual transfer situation such as his. In this connection he states that his assignment was neither a permanent nor a temporary duty assignment as covered by the JTR. We disagree. As pointed out above the assignment to St. Louis was a permanent duty assignment. Therefore, we sustain the disallowance of the claim by our Claims Division.

  
Deputy Comptroller General  
of the United States