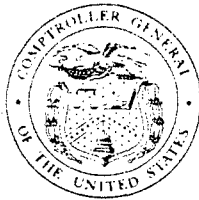


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Mr. Brown
PLM 2



DECISION

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

[Request for Reimbursement of]

FILE: B-198028

DATE: November 3, 1980

MATTER OF: Muriel V. Landry - Relocation Expenses]

DIGEST: Employee of HUD relocated her residence one year prior to issuance of travel orders transferring her. Employee may not be reimbursed real estate expenses as there is no evidence of a previously existing administrative intention to transfer her and there has been no agency determination that the move was incident to the transfer. Joan E. Marci, B-188301, August 16, 1977.

By a letter dated February 26, 1980, May V. Smith, an authorized certifying officer with the San Francisco Regional Office of the Department of Housing and Urban Development (HUD), requested an advance decision regarding the reimbursement of real estate expenses claimed by Ms. Muriel V. Landry. For the reasons set forth below, we find that Ms. Landry is not entitled to reimbursement of the claimed expenses.

The record shows that on December 15, 1977, Ms. Landry, an employee of HUD whose duty station was Los Angeles, California, sold a residence in Granada Hills, California. On March 20, 1978, she purchased a residence in Scottsdale, Arizona. On March 29, 1979, a travel authorization was issued to Ms. Landry for a change of duty station from Los Angeles to Phoenix, Arizona. In her request for reimbursement of real estate expenses Ms. Landry indicated that her first attempt to transfer "fell thru" at which time she had already sold her house in Los Angeles and purchased the house in Scottsdale.

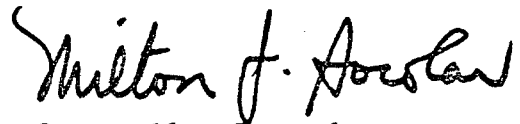
The certifying officer inquires whether or not Ms. Landry is entitled to reimbursement in light of our decision Joan E. Marci, B-188301, August 16, 1977. In that case we held that the reimbursement of expenses incurred prior to or in anticipation of a transfer of official duty station may be allowed only if the travel order subsequently issued includes authorization for expenses on the basis of a previously existing administrative intention, clearly evident at the time the expenses were incurred by the employee, to transfer the employee. We also noted in Marci, that where an employee has relocated his or her residence prior to the transfer, relocation expenses shall be reimbursed only if the agency determines that the relocation was incident to the change of official station.

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There is no evidence in the record of a previously existing intention to transfer Ms. Landry except for the statement by Ms. Landry concerning her planned transfer in 1977, the time her residence was sold. In any event, that transfer did not occur. The information provided us concerning the transfer in March 1979 shows that it was being considered as early as January 1979, but not in 1977. Likewise there has been no determination by the agency that Ms. Landry's relocation expenses incurred in late 1977 and early 1978 were incident to her transfer over a year later in March 1979, and in these circumstances it appears very doubtful that such a determination could be made.

While the sale and/or purchase of a residence before a definite notice of transfer does not in itself disqualify an employee from reimbursement of expenses incurred in the sale or purchase, an employee cannot be assured of reimbursement when he undertakes such expenses in the absence of a travel order. Joseph L. White, 58 Comp. Gen. 208 (1979); Philip H. Postel, B-187107, October 7, 1976. The requirements stated in Marci must be satisfied if an employee sells or purchases a residence in anticipation of a transfer. The record in this case indicates that neither the requirement of an existing administrative intention to transfer Ms. Landry at the time of the transaction nor the requirement of a determination that the relocation expenses were incident to the transfer has been met. Accordingly, the expenses claimed by Ms. Landry may not be certified for payment.



For The Comptroller General
of the United States