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DECISION

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

FILE: B-201009 DATE: April 16, 1981

MATTER OF: John P. Allen - Relocation expenses - Escrow fees, shipment of automobile

[Claim for Reimbursement of Escrow fees and charge for shipment of automobile]

DIGEST: 1. Because mortgage financing was unavailable, transferred employee sold his house at old duty station by real estate contract. Under contract purchaser agreed to make monthly payments and employee, as seller, agreed to transfer title upon payment in full. To handle future payments, employee entered into escrow agreement whereby buyer was to make monthly payments to escrow agent, and escrow agent was to make mortgage payments for which employee remained liable. Employee may not be reimbursed for cost of escrow agreement as agreement is solely for employee's convenience and not directly related to sale itself. B-171338, April 29, 1976.

2. Employee of U.S. Army who was transferred from Tacoma, Washington, to Indianapolis, Indiana, who traveled by air with his family, may not be reimbursed for cost of shipping automobile by commercial carrier.

The Finance and Accounting Officer, Fort Benjamin Harrison, Indiana, requests a decision as to the propriety of paying Dr. John P. Allen's claim for reimbursement of an escrow fee of $325 paid in connection with the sale of his former residence and a $770.19 charge for shipment of his automobile. Both charges were incurred in connection with Dr. Allen's transfer from Madigan Army Medical Center, Washington, to the Army Research Institute Field Unit, Fort Benjamin Harrison, Indiana, as a civilian employee of the Department of the Army. For the reasons stated below, neither fee may be reimbursed.

Because of the scarcity of mortgage money, the individual who purchased Dr. Allen's residence at his old duty station was unable to obtain conventional financing. Dr. Allen therefore sold his residence by means of a real estate contract whereby the purchaser agreed to pay the purchase price in

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installments and he, as the seller, agreed to execute a warranty deed upon payment in full. Incident to that contract, Dr. Allen entered into an escrow agreement whereby the purchaser's monthly payments were to be made to the escrow agent which, in turn, paid the monthly mortgage (for which Dr. Allen remained liable) and disbursed the remainder, less its collection fee, to Dr. Allen. Dr. Allen claims reimbursement for the $25 fee for initiating the escrow collection contract as well as collection charges of $5 per month for 60 months for which he is obligated under the terms of that agreement.

Payment of the escrow fee was previously denied by the Finance and Accounting Officer on the basis that it is a finance charge which may not be reimbursed under paragraph 2-6.2d of the Federal Travel Regulations. Dr. Allen contends that the fee is not a finance charge since it was not imposed by a creditor as an incident to the extension of credit. See 15 U.S.C. 1605 (1976). Nevertheless, for the reasons indicated in Arnold J. Bejot, B-171338, April 29, 1976, the fee may not be reimbursed.

In the Bejot case, reimbursement of the employee's share of escrow charges was denied when, at the time the transferred employee sold his house at his old duty station, the mortgagee would not allow the buyer to assume the outstanding mortgage. In that case the buyer agreed to make the monthly mortgage payments for which the seller remained liable through an escrow account established for that purpose. We concluded that the escrow costs could not be reimbursed since the escrow agreement existed for the seller's convenience and did not relate directly to the sale.

Dr. Allen seeks to distinguish the Bejot case by arguing that he was obliged to enter into a real estate contract because of the unavailability of mortgage money whereas the similar arrangement in Bejot was prompted by the mortgagee's refusal to allow the buyer to assume the seller's mortgage. We are unable to agree that this is a relevant distinction. The real estate contract obligated the buyer to make monthly payments. The payments could have been made directly to Dr. Allen and he could have continued to make the mortgage payments for which he remained liable. As in the Bejot case, he opted to use an escrow agent to make those payments. The escrow arrangement was a convenience for the handling of

future payments. Because it was not directly related to the sale itself, it may not be reimbursed as a real estate expense incident to the sale of Dr. Allen's former residence.

Because of health considerations, Dr. Allen and his dependents traveled by air to his new duty station and shipped the family's automobile by commercial carrier. The arrangement was approved by his immediate supervisor and the civilian personnel office, although his travel orders, which authorized travel by privately owned vehicle as advantageous to the Government, were not amended. The certifying officer, nonetheless, denied reimbursement for the shipping cost of $770.19 on the basis that there is no authority to pay for transportation of vehicles incident to transfers within the continental United States.

The employee suggests that our determination in Richard A. Chalmers, B-194267, September 6, 1979, in which we authorized reimbursement for shipment of an employee's automobile in conjunction with his and his dependents' travel by auto-train provides a precedent for reimbursement for shipment of the automobile in this instance. In that case the cost of shipping the automobile was considered an allowable charge since such charge was a part of the package fare on auto-train and since the total charge did not exceed the constructive cost of the authorized mode of travel. Dr. Allen claims that his case is similar to Chalmers in that his determination to travel by air and ship his automobile rather than to drive to his new duty station resulted in a net savings to the Government and conserved energy.

The Chalmers case does not stand for the proposition that an employee transferred within the continental United States may travel by commercial carrier and be reimbursed for shipment of his automobile where the aggregate cost is less than that associated with travel by privately owned vehicle. The case merely recognizes that where the expense of transporting the employee's automobile is an integral part of the commercial fare paid for the employee's own transportation, that expense may be reimbursed incident to the employee's travel.

In Dr. Allen's case, as in Joseph P. Crowley, B-186116 February 4, 1977, shipment of the automobile was unconnected with his and his dependents' travel by air. Where shipment

of the automobile is separately arranged, reimbursement of the shipping costs incurred is subject to 5 U.S.C. 5727(a) which prohibits the transportation of privately owned vehicles at Government expense in connection with a transfer in the absence of specific authorization by statute. Although transportation of privately owned vehicles has been authorized in connection with assignments to permanent duty at posts outside the continental United States (5 U.S.C. 5727(b)), no statute permits payment of Dr. Allen's claim or otherwise authorizes reimbursement for the cost of shipment of an automobile by commercial carrier within the United States. See 58 Comp. Gen. 249 (1979).

Accordingly, the claim of Dr. Allen may not be certified for payment.

Milton J. Socolar

Acting Comptroller General
of the United States