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Ms. Shanks

DECISION



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

FILE: B-204443

DATE: April 5, 1982

MATTER OF: Ervin A. Keith

DIGEST:

1. Employee is not entitled to reimbursement for real estate expenses incurred in connection with his permanent change of station from Dallas, Texas, to Washington, D.C., since settlement dates on residence sale and purchase transactions were not within 2 years of the date on which the employee reported to the new duty station.
2. Employee who relocated upon a permanent change of station is not entitled to reimbursement for the transportation of his household goods, since they were not consigned to the carrier for delivery to a particular destination within 2 years of the date he reported to the new duty station.
3. An agency official erroneously authorized an extension of the statutory 2-year relocation period, and the employee relied upon such extension. Nevertheless, the employee cannot recover the costs incurred after the expiration of the 2-year period because the Government is not subject to the rule of equitable estoppel in these circumstances, nor are other principles of equity available to allow claim since the Comptroller General has only such equity jurisdiction as is specifically granted by statute.

This action is in response to the request of Mr. William L. Ward, Director of Financial Management, Department of Education, Washington, D.C., for a decision on the propriety of the Department of Education's denial of transportation and relocation expenses

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incurred by an employee, Mr. Ervin A. Keith, in connection with a permanent change of station. Mr. Ward also requests a determination on the merits of Mr. Keith's request for relief from financial liability on the basis of hardship in view of the Supreme Court holding in Moser v. United States, 341 U.S. 41 (1951).

We concur in the agency's determination that the employee is not entitled to reimbursement for real estate expenses or for the transportation of his household goods because the settlement on the real estate transactions and the shipment of his household goods took place after the maximum time limitation of 2 years from the date the employee reported for duty at the new official station. There is no legal basis by which we may waive the employee's debt and we have no equity jurisdiction unless specifically granted by statute.

The effective date of Mr. Keith's change of station from Dallas, Texas, to Washington, D.C., was July 2, 1978. In June 1979, Mr. Keith was granted an extension of 1 year to complete the real estate transactions in connection with his 1978 transfer. In June 1980, he requested an additional extension of 3 months beyond July 2, 1980, the second anniversary of his transfer to Washington. This request was approved by the Assistant Secretary for Management, Department of Education; however, he was without authority to grant this extension.

The settlement dates on the sale of his Dallas residence and the purchase of his Washington area residence were August 15 and August 27, 1980, respectively. The Government Bill of Lading for the transportation of Mr. Keith's household effects from Dallas shows that the shipment was received by the carrier on June 19, 1980, with an order to forward them to Washington, D.C. However, Mr. Keith states that the goods were actually turned over to the carrier on August 22, 1980. Concerning this apparent discrepancy, the employee has explained to us informally that he began the necessary procedures for the shipment of his household goods on June 9, 1980, and the Bill of Lading was prepared

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accordingly. However, upon receiving approval for an extension of the relocation period, he postponed the movement of his household goods. The record shows that the shipment arrived in the Washington area on August 29, 1980.

Since the settlement dates on the employee's real estate transactions were not within the statutory time limitation of 2 years following the effective date of his change of station, the Department of Education denied his claim for real estate expenses. In addition, the agency initiated procedures to recoup payments made to Mr. Keith on the Bill of Lading for the transportation of his household effects.

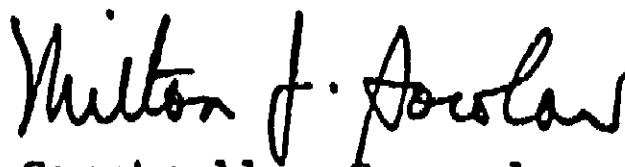
Payment of the transportation and relocation expenses of Federal employees who transfer from one permanent duty station to another in the interest of the Government is authorized by 5 U.S.C. §§ 5724 and 5724a, respectively. These provisions are implemented by chapter 2 of the Federal Travel Regulations. Paragraph 2-1.5a(2) of the Regulations requires that the transportation of an employee's household goods begin within 2 years of the effective date of the employee's transfer, except in certain circumstances not applicable in this case. Under the provisions of paragraph 2-6.1(e), an employee may not be reimbursed for real estate expenses incurred in connection with a change of permanent station if the transaction settlement date is more than 2 years after the date the employee reported for duty at the new official station.

Since Mr. Keith's household goods were received by the carrier more than 2 years after he reported for duty in Washington, he was not entitled to reimbursement for the claimed transportation expenses. Matter of Donnelly, B-188292, July 8, 1977. Likewise, reimbursement of the employee's real estate expenses is not authorized since the transaction settlement dates were not within 2 years of the effective date of his transfer. Matter of English, B-192441, December 18, 1978. Moreover, no agency official is authorized to extend the relocation date time limit beyond 2 years. 58 Comp. Gen. 539 (1979).

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In response to Mr. Keith's contention that, as in Moser v. United States, 341 U.S. 41 (1951), he is entitled to relief on the basis of equitable estoppel, our Office grants relief on the basis of equity only where such jurisdiction is specifically granted by statute. See 54 Comp. Gen. 527 (1974) and Matter of Strasfogel, B-186975, March 16, 1977. See also, for a detailed discussion of our position on equitable estoppel against the Government, 56 Comp. Gen. 85 (1976). Under the provisions of 5 U.S.C. § 5584, our Office has, in certain cases, waived collection where payments have been made on the basis of erroneous advice or authorizations of Government officials. Matter of Granico, B-189701, September 23, 1977. However, that statute specifically excludes the waiver of travel and transportation expenses and allowances and relocation expenses payable under 5 U.S.C. § 5724a. 59 Comp. Gen. 28 (1979).

Accordingly, there is no statutory authority to allow Mr. Keith's claim for real estate expenses or to waive the debt resulting from the erroneous payment of transportation expenses incurred more than 2 years after his change of station.

for 
Comptroller General
of the United States