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DECISION



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

FILE: B-210331

DATE: July 12, 1983

MATTER OF: Mark Z. Brandon, III - Real Estate Expenses - Transfer to Foreign Country

DIGEST:

Employee was authorized permanent change of station (PCS) from Washington, D.C., to Mexico. He was not authorized to incur real estate expenses at Government expense. Employee sold residence at old duty station prior to reporting for duty at new post in Mexico on July 29, 1978. Agency authorized employee a transfer in November 1978 to the Canal Zone because Government of Mexico would not grant accreditation for claimant to establish residency in Mexico. The fact that Mexico would not grant accreditation does not change his status to temporary duty. Claimant is not entitled to reimbursement of real estate expenses incurred incident to sale of Maryland residence in connection with PCS to Mexico, since both the old and new duty stations were not located within the United States, its territories and possessions, Puerto Rico, or the Canal Zone.

This decision is in response to a request by Mr. Lester A. Gesell, Jr., Comptroller, Inter American Geodetic Survey, Defense Mapping Agency, as to whether a travel voucher in the amount of \$7,727.30, submitted by Mr. Mark Z. Brandon, III, an employee of the agency, may be certified for payment. The amount claimed represents real estate expenses incurred by Mr. Brandon incident to a permanent change of station (PCS) to Mexico City, Mexico. For the reasons hereafter stated, the voucher may not be certified for payment.

The certifying officer has asked several questions concerning Mr. Brandon's transfer and his entitlement to reimbursement of real estate expenses. The primary issues presented by the questions are, first, was the transfer to

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Mexico City, Mexico, a PCS or merely a temporary duty assignment of approximately 4 months; and, second, if the transfer was a PCS, is Mr. Brandon entitled to reimbursement of \$7,727.30 in real estate expenses incurred in selling his Maryland residence on June 26, 1978.

On May 17, 1978, Mr. Brandon was authorized a PCS from Washington, D.C., to Mexico City, Mexico. Mr. Brandon and his family arrived in Mexico City on July 29, 1978, under the authority of a country clearance issued by the United States Embassy in Mexico. The United States Embassy commenced the accreditation process for Mr. Brandon upon his arrival in Mexico. The accreditation is necessary for foreign officials or employees to enable them to establish residency in Mexico and permit the entrance of household goods duty free. Due to Mr. Brandon's duties with the Pan American Institute of Geography and History, the Government of Mexico refused to grant accreditation. During August, September, and October, the Embassy attempted to establish accreditation for Mr. Brandon. In late October, it became apparent that the Government of Mexico would not grant accreditation to Mr. Brandon. The employee was therefore unable to establish residency or be stationed in Mexico through no fault or negligence on his part. The decision was then made to transfer Mr. Brandon to the Canal Zone in the same position and grade rather than return him to Washington. By travel authorization dated November 2, 1978, Mr. Brandon was transferred to the Canal Zone. He reported for duty on November 6, 1978.

This Office has long held that the issue of whether a particular duty station is, in fact, permanent or temporary is a question of fact to be determined from the travel orders under which the assignment is made and, where necessary, from the character of the assignment, particularly the duration of the assignment and the nature of the duty performed. Frederick C. Welch, B-206105, December 8, 1982, 62 Comp. Gen. _____; 33 Comp. Gen. 98 (1953); B-172207, July 21, 1971.

Another well-established rule is that the effective date of a change of official station is the date the

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employee reports for duty at his new official station. Robert A. Motes, B-210953, April 22, 1983; Elizabeth B. Mullis, B-194650, February 13, 1980; Paragraph 2-1.4j, Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR).

Here, the travel orders dated May 17, 1978, issued to Mr. Brandon, authorized a permanent change of official station from Washington, D.C., to Mexico City, Mexico. There was no time limitation stated as to the duration of the transfer, and it appears that the employee performed the full range of his duties during the approximately 4-month period he worked in Mexico. The failure of the Government of Mexico to grant accreditation to Mr. Brandon would not change his status to temporary duty where it is clear that the Defense Mapping Agency intended, and the employee contemplated that Mexico City would in fact be his permanent duty station. The effective date of the transfer was July 29, 1978, the date Mr. Brandon reported for duty at his new post of duty in Mexico City. Thus, Mr. Brandon's subsequent transfer to the Canal Zone was a second permanent change of station.

Further, Mr. Brandon sold his former residence in Potomac, Maryland, on June 26, 1978, prior to the date he reported for duty in Mexico City. Thus, the sale of the residence at his old duty station was made incident to his permanent change of official station to Mexico City, Mexico, not in connection with his subsequent transfer to the Canal Zone.

The question then arises as to whether Mr. Brandon may be reimbursed for the real estate expenses he incurred in selling his Maryland residence, incident to his change of official station to Mexico City, Mexico.

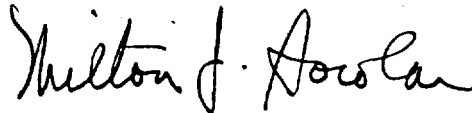
Section 5724a(a)(4) of Title 5, United States Code (1976), provides that an employee transferred in the interest of the Government from one official station to another for permanent duty may be reimbursed the expenses of the sale of his residence at the old station and the purchase of a residence at the new official station when the

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old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. See also FTR paragraph 2-6.1a.

This Office has consistently held that 5 U.S.C. § 5724a requires that both the old and new duty stations be located within the areas listed. Thus, reimbursement of real estate expenses may not be made to an employee for the costs incurred in selling a residence in the United States incident to a change of official station to a foreign post of duty. 47 Comp. Gen. 93 (1967); Jan Unterzuber, B-193728, August 10, 1979. Inasmuch as Mr. Brandon's new duty station was Mexico City, Mexico, there is no authority for reimbursement of the claimed real estate expenses.

Accordingly, the travel voucher in the amount of \$7,727.30, submitted by Mr. Mark Z. Brandon, III, may not be certified for payment.

for 
Comptroller General
of the United States