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

FILE: B-213861 **DATE:** May 21, 1984

MATTER OF: Ferrel G. Camp - Reimbursement of Real Estate Expenses - Title Requirements

DIGEST:

Transferred employee claims reimbursement for expenses incurred incident to the sale of a residence at his old duty station. Title to that residence was in the name of employee's wife and her former husband, but employee and his wife resided in the house and she received all of the proceeds of the sale. Employee may be reimbursed for expenses of sale to the extent of his wife's interest in the residence, in this case 50 percent.

The National Security Agency (NSA) has requested our decision concerning the claim of a transferred employee, Ferrel G. Camp, for reimbursement of real estate expenses associated with the sale of a residence at his old official duty station. The NSA denied reimbursement because the residence was held in the name of Mr. Camp's wife and her former husband and, therefore, the title requirements of paragraph C14000-1.2 of Volume 2 of the Joint Travel Regulations (JTR) were not met. For the reasons that follow, we hold that Mr. Camp may be reimbursed for 50 percent of the sales expenses.

Mr. Camp was transferred from Fort Meade, Maryland, to Buckley, Colorado, in June 1983. Although he does not contest that title to the residence was in the name of his wife and her former husband, he claims that he is entitled to reimbursement of the costs of selling that residence because he resided in the house from August 1978 to June 1983 and made all mortgage payments during that period up to February 1983, when he personally paid off the mortgage balance. In addition, Mr. Camp points out that all proceeds from the sale of the residence went to his wife.

The statutory authority for reimbursing a Federal employee for real estate expenses incurred incident to a transfer is 5 U.S.C. § 5724a(a)(4) (1982), which includes certain requirements relating to the title of the property

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involved. These requirements are carried over into paragraph 2-6.1c of the Federal Travel Regulations, FPMR 101-7 (September 1981), (FTR). That paragraph provides, as does JTR paragraph C14000-1.2, that title to the residence "must be in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family."

The statutory language and implementing regulations could be interpreted as denying reimbursement since title was not held in the name of a member of Mr. Camp's family alone. Mrs. Camp held title with her former husband. However, the intent of the statute is to reimburse an employee or his dependents, and the implementing regulations allow for reimbursement to the extent of an employee's interest. See FTR paragraph 2-6.1c, cited above, and FTR paragraph 2-6.1f, which provides for pro rata reimbursement. Thus, in James C. Bowers, B-195652, April 1, 1980, payment was allowed for one-half of the total cost where 4 persons were owners of the property, 2 of whom qualified as owners for reimbursement purposes under the regulation. See also James A. Woods, B-184478, May 13, 1976, where reimbursement of 50 percent was allowed to an employee who held title jointly with a brother who was not a dependent.

Mr. Camp could be reimbursed the total amount claimed if his wife had sole title to the residence. However, he has not submitted any evidence that his wife's former husband had relinquished his legal interest in the residence. Accordingly, Mr. Camp may be reimbursed for otherwise allowable expenses to the extent of his wife's interest in the property, in this case 50 percent.

for Milton J. Socolar
Comptroller General
of the United States