

V. ROSES
29916

DECISION



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

FILE: B-215012

DATE: December 4, 1984

MATTER OF: John W. Pitts - Real Estate Expenses - Sales
and Refinancing Expenses

DIGEST:

1. When an employee who was in a constant travel status is transferred, he may be reimbursed for the real estate expenses incurred in selling his former residence, even though it was not located at the place that was administratively designated as his duty station and he did not commute daily to that residence.
2. An employee purchased a residence at his new duty station through a real estate installment contract under which he obtained equitable title upon the execution of the contract and would be given a full warranty deed upon full payment. He may be reimbursed for additional expenses associated with refinancing the contract paid within 1 year of the transfer.

Betty Gillham, a certifying officer for the Department of Energy, Bonneville Power Administration (BPA), in Portland, Oregon, requests an advance decision as to whether she may pay a voucher submitted by John W. Pitts, a BPA employee, for real estate expenses in the amount of \$5,232.04 incident to a transfer. We hold that Mr. Pitts' voucher may be processed for payment for the full amount claimed.

FACTS

Mr. Pitts transferred to the BPA from the Department of Defense, Naval Torpedo Station, Keyport, Washington, on October 2, 1977, as an Electrician Apprentice. His first official duty station with BPA was at its substation in Goshen, Oregon. Shortly after his transfer, Mr. Pitts bought a residence near Goshen in Eugene, Oregon. He and his family moved into that residence and he kept his prior residence in Kingston, Washington, for rental purposes.

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The BPA's Electrician Apprenticeship Program normally covers a 3-year period. An apprentice generally spends the first year at a District Headquarters such as the one at Goshen. The second year is usually spent in construction during which an apprentice can be sent anywhere in the BPA system and is usually in a constant travel status. During the third year of the program, an apprentice may also spend weeks at a time away from his permanent headquarters.

On October 15, 1978, going into his second year in the apprenticeship program, Mr. Pitts was detailed to BPA's division of construction at Vancouver, Washington, for a period of 1 year. In anticipation of his pending constant travel status, he moved his family back to his Kingston residence and retained his house in Eugene for rental purposes. During that year he was in a travel status for 81 percent of his duty time in a number of different locations throughout Washington, Oregon, and Idaho. At no time did he keep a separate residence in Vancouver.

On April 28, 1980, Mr. Pitts was permanently reassigned to the division of construction in Vancouver. His family residence remained in Kingston. For the next 2 years and 2 months, Mr. Pitts was in a travel status approximately 95 percent of his duty time. On July 6, 1982, he was permanently reassigned from Vancouver to Olympia, Washington.

Less than 1 month after he was transferred to Olympia, Mr. Pitts purchased a residence near Olympia in Shelton, Washington. On August 2, 1982, he closed the purchase through a "real estate contract" which required a down payment and monthly installment payments from the purchaser to the seller. The contract also provided that upon sale of Mr. Pitts' house in Kingston he would make a supplemental payment to the seller and, in any event, that the contract must be paid in full within 5 years. On December 22, 1982, Mr. Pitts sold his home in Kingston. On April 12, 1983, he refinanced the contract on the Shelton home and paid the seller the full purchase price with the proceeds.

In connection with his transfer from Vancouver to Olympia, Mr. Pitts was given a travel advance of \$6,500. Actual expenses claimed by Mr. Pitts for allowable items,

other than real estate expenses, totaled \$3,398. The BPA started collection action against Mr. Pitts for recovery of the unused portion of the travel advance. Subsequently, Mr. Pitts submitted a travel voucher for reimbursement of expenses incurred in selling the residence in Kingston and purchasing and refinancing the residence in Shelton. He also requested that repayment by salary deductions be delayed pending a decision by our Office regarding his entitlement to reimbursement of real estate expenses. The agency approved his request, and we have no objection to that action.

SALES EXPENSES

Subsection 5724a(a)(4) of Title 5, United States Code (1982), authorizes reimbursement of "[e]xpenses of the sale of the residence * * * of the employee at the old station * * * ." Paragraph 2-1.4i of the Federal Travel Regulations (Supp. 4, August 23, 1982) incorp. by ref., 41 C.F.R. § 101-7.003 (1983) defines "official station" as the residence "from which the employee regularly commutes to and from work." Therefore, the general rule is that an employee may only be reimbursed for the expenses incurred in selling the residence from which he daily commuted to his old duty station.

The BPA disallowed reimbursement of Mr. Pitts' selling expenses based on the general rule stated above. Mr. Pitts, however, contends that he is entitled to reimbursement based on our decisions in Billy L. Kenney, B-188706, December 14, 1978, and Robert A. Van Winkle, B-184004, April 27, 1976. The agency contends that those decisions are inapplicable to this case. In those decisions we held that when an employee is constantly in a travel status and has no single, true official duty station, but only a place so designated for administrative convenience, he may be reimbursed the expenses of selling his home, since it is impossible for the employee to commute daily from that residence.

As stated previously, for over 2 years prior to his transfer to Olympia, Mr. Pitts was in a travel status approximately 95 percent of his duty time. He was assigned to temporary duty in various locations throughout Washington, Oregon, and Idaho and, thus, did not regularly report for duty at his official station in Vancouver.

Since Mr. Pitts performed only approximately 5 percent of his duty time at Vancouver, it appears that this location was designated as his official station only for administrative convenience. Therefore, Mr. Pitts falls within the rule stated in Kenney and Van Winkle, cited above, and is entitled to reimbursement of real estate expenses incurred in selling his home in Kingston.

REFINANCING EXPENSES

The authority for reimbursement of expenses incurred by an employee in purchasing a residence at a new duty station after transfer is contained in 5 U.S.C. § 5724a (1982) and the implementing travel regulations.

We have held that this authority applies to real estate expenses incurred in the purchase of a residence by "contracts for deed," and "land installment contracts" under which the purchaser makes installment payments to the seller and obtains equitable title upon execution of the contract but does not obtain legal title until the full amount is paid. Larry W. Day, 57 Comp. Gen. 770 (1978). These types of purchase arrangements between buyer and seller are similar to the "real estate contract" used by Mr. Pitts to purchase a home in Shelton, Washington. For purposes of meeting the settlement date time limitation contained in the Federal Travel Regulations, the "settlement date" involved in such a transaction is the date the contract is executed. Larry J. Light, B-188300, August 29, 1977.

Once the employee becomes eligible for reimbursement of real estate expenses by entering into a real estate transaction with a settlement date within the time limitation contained in FTR para. 2-6.1e, we have held that the employee may be reimbursed for subsequent expenses if they are actually paid by him within the maximum time limitation for settling real estate sales or purchases under the FTR. Larry W. Day, 57 Comp. Gen. at 772.

As stated previously, Mr. Pitts purchased his residence in Shelton through a real estate installment contract, executed on August 2, 1982, within 1 month after July 6, 1982, the effective date of his transfer. Applying the decisions cited above, the settlement date of this transaction was August 2, 1982, well within the 2-year

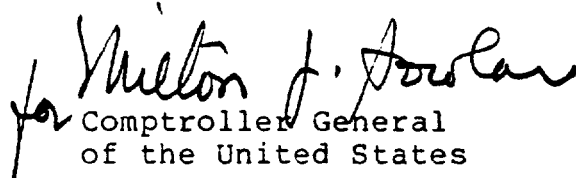
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maximum limitation under FTR para. 2-6.1e (September 28, 1981, effective November 1, 1981) applicable at that time. The expenses associated with refinancing the contract were paid on April 12, 1983, also well within the time limitation.

Thus, the expenses incurred in refinancing the contract for purchase of Mr. Pitts' residence in Shelton are reimbursable. In addition, these expenses would have been reimbursable had they been paid any time within the maximum time limitation for settling real estate purchases under the FTR. See Larry W. Day, cited above.

The certifying officer refers to James T. Rideoutte, B-188716, July 6, 1977, and 55 Comp. Gen. 679 (1976) in connection with this claim. These decisions involve interim financing loans obtained to purchase a new residence pending receipt of the proceeds from the sale of a former residence. These decisions are inapplicable to this case. Instead, we have relied on Larry J. Light, and Larry W. Day, cited above, which involve purchase of a residence by a real estate installment contract between buyer and seller.

For the foregoing reasons, we conclude that Mr. Pitts' voucher may be processed for payment in the full amount claimed.

for 
Comptroller General
of the United States