

W/Ox Maguire

DECISION



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

FILE: B-219854

DATE: March 12, 1986

MATTER OF: John Debo

DIGEST:

Employee of the National Park Service in Lowell, Massachusetts, sold his residence after being selected to participate in a developmental management training program in Washington, D.C. At the completion of the program he had not been reassigned and his temporary duty in Washington was extended. Several months later he was reassigned to Boston, Massachusetts. Employee may not be reimbursed for real estate sale expenses since there was not a clear administrative intent, but rather a possibility that he might be transferred at the time he sold his residence.

This action is in response to a request from the National Park Service, U.S. Department of the Interior, for an advance decision regarding Mr. John Debo's claim for residence sale expenses.^{1/} The question presented is whether Mr. Debo may be reimbursed in view of the fact that he incurred the residence sale expenses at the time he was selected to participate in the agency's training program rather than at the time he was subsequently transferred to his new duty station. Because the record before us does not establish the existence of a clear and definite administrative intent to transfer Mr. Debo at the time he was selected for training, we hold that his claim for residence sale expenses may not be paid.

BACKGROUND

Mr. Debo, an employee of the National Park Service, was stationed in Lowell, Massachusetts, at the Lowell National

^{1/} The request was submitted by Barry Tremblay, Finance Officer, National Park Service, North Atlantic Region, Boston, Massachusetts.

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Historical Park. He held the position of Management Assistant, GS-11, but served under a temporary promotion as Assistant Superintendent, GS-12, from February 7, 1982, to August 14, 1983.

In November 1982 the Department of the Interior announced the Departmental Manager Development Program for 1983-84. Mr. Debo was selected as a trainee for the program which was to begin on September 6, 1983. He states that prior to participating in the program he spoke with the Lowell National Historical Park Superintendent and the National Park Service Chief of Training and was told that upon completion of the program every effort would be made to place him in a position other than at the Lowell National Historical Park. Based on his understanding that he would be entitled to residence sale expenses, Mr. Debo sold his residence in Lowell, Massachusetts, in August 1983 and relocated to Washington, D.C., with his family.

During the time Mr. Debo was in Washington, his position in Lowell remained open. On April 15, 1984, while still on temporary duty in Washington, Mr. Debo was selected for and promoted to the newly-created GS-13 position of Deputy Superintendent at the Lowell National Historical Park. He did not, however, return to that position. At the conclusion of the training period in June 1984, his temporary duty assignment in Washington was extended and in September 1984 Mr. Debo was transferred to the Boston National Historical Park. Subsequent to that transfer, Mr. Debo submitted a claim for reimbursement of the residence sale expenses he incurred in August 1983.

DISCUSSION

In connection with his transfer to Boston, Mr. Debo was authorized reimbursement of relocation expenses, including real estate sale and purchase expenses under 5 U.S.C. 5724 and 5724a. This authorization notwithstanding, the Park Service questions whether Mr. Debo may be reimbursed real estate sale expenses where the sale of his residence took place prior to the date he was actually notified of his transfer to Boston. The Park Service's doubt relates to whether the sale of Mr. Debo's residence meets the following requirement set forth at paragraph 2-6.1d of the Federal Travel Regulations (Supp. 4, August 23, 1982), incorp. by ref. 41 C.F.R. § 101-7.003 (1984):

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"The dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he/she was first definitely informed by competent authority of his/her transfer."

Mr. Debo relies on our holding in B-161795, June 29, 1975, as authority to allow his claim. In that case, faced with the same regulatory requirement, we allowed reimbursement to an employee who sold his residence at his old duty station after having been selected to participate in an Internal Revenue Service executive training program. Under the program a participant was assigned to 6 months of training away from his duty station with the understanding that he would be reassigned to a new duty station at the end of the program. The documents describing that program state that upon completion of the training period graduates will be given new permanent assignments or will be assigned to specially created interim positions for development and then permanently assigned. Under these circumstances we viewed selection for the training program as tantamount to notification that the employee's duty station would be changed. This comported with the agency's position that there was an existing administrative intent to transfer the employee at the time he sold his residence even though a specific location was not identified as his new duty station until he completed the training program.

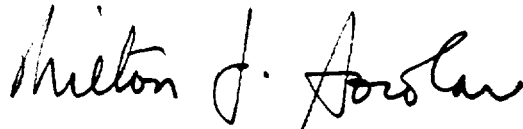
In contrast to the training program considered in B-161795, the Department of the Interior program that Mr. Debo attended was not necessarily designed to place participants in new positions. The announcements concerning the program all specifically state that it provides training and development experience to prepare participants for future upper-level management positions, but that the trainee's position will be held open so he can return to his position upon completion of the training. As described in the Departmental Manual, the program is not intended to train individuals for immediate target positions, but is a developmental experience that does not guarantee promotion or immediate reassignment. See Department of the Interior, 370 Departmental Manual, Chapter 412, paragraphs 412.2.1 and 412.2.3.

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Thus it appears that the Park Service program is designed for employee development rather than, as in the case of the Internal Revenue Service program, to train employees for immediate placement in new positions. Although Mr. Debo states that he was told that efforts would be made to place him in a different duty station, the fact that he applied and was selected for the vacant Deputy Superintendent position in Lowell confirms that there was some anticipation by all parties concerned that he might be returned to Lowell. Mr. Debo has described his application for this position as a matter of prudence on his part.

We note that in a similar case involving the Department of the Interior Departmental-Bureau Manager Training Program, an employee was sent to Washington, D.C., for training and upon completion of the training was assigned to permanent duty in Washington, D.C. We found that there had not been any evidence of an intent to transfer the employee at the time he was selected for participation in the program and incurred many of the relocation costs, including real estate purchase expenses, for which he claimed reimbursement. We denied reimbursement even though he had been informed during an informal discussion that there was a possibility he might be reassigned upon completion of training. B-178410, July 6, 1973.

In conclusion, we find that there was no clear intent to transfer Mr. Debo at the time he was selected for training and sold his residence in Lowell. It appears that until the time the position in Boston became available there was anticipation that Mr. Debo might return to Lowell. Absent the clear administrative intent on the part of the agency to transfer him at the time he was selected for training, the relocation expenses must be denied.



Acting Comptroller General
of the United States