



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Anthony Stampone III

File: B-223018

Date: September 30, 1986

DIGEST

A transferred employee who purchased a home with his fiancée at his new duty station is entitled to only 50 percent of his allowable residence transaction expenses since, at the time of purchase, he did not own the home alone, nor did he own it with a member of his immediate family as required by the Federal Travel Regulations.

DECISION

This is in response to a request for an advance decision concerning the legality of reimbursing Mr. Anthony Stampone III for additional relocation expenses he is claiming incident to a transfer from Fort Monmouth, New Jersey, to the Washington, D.C. area.^{1/} Mr. Stampone purchased a home in the Washington area with his fiancée. Since Mr. Stampone's co-purchaser was not a member of his immediate family at the time of the purchase, officials at Headquarters, Army Materiel Command determined that he was entitled to reimbursement for only 50 percent of the allowable residence transaction expenses.

Mr. Stampone appealed this determination on the basis that the financial and time constraints under which he purchased the home prevented him from acting otherwise. While we do not question Mr. Stampone's good intentions, in compliance with applicable regulations as interpreted in prior Comptroller General decisions, we affirm the agency's determination to limit payment to 50 percent of the allowable residence transaction expenses.

^{1/} The request for decision was presented by the Finance and Accounting Officer, U.S. Army Aberdeen Proving Ground Installation Support Activity, Aberdeen Proving Ground, Maryland.

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BACKGROUND

Mr. Stampone, then a Department of the Army employee, transferred to Headquarters, Army Materiel Command, Alexandria, Virginia, reporting for duty in June 1984. He received reimbursement for his relocation expenses in November of that year. At that time, he was engaged to be married, so he intended to delay purchase of a home in the Washington, D.C. area until after his wedding which was scheduled for August 1985. In March 1985, however, he and his fiancée found a desirable home. They negotiated a real estate contract which stipulated a May closing date. In order for Mr. Stampone to secure the loan he needed, he required his fiancée's income, making her a co-applicant and a co-purchaser. They closed their real estate transaction in May and married in August 1985.

Mr. Stampone filed for reimbursement of his closing costs in June 1985. The reviewing officials at the Materiel Command determined that 50 percent of the allowable \$2,598.88 was payable since Mr. Stampone had not purchased the home in his name alone or with a person who was a member of his immediate family at the time of the purchase.

ANALYSIS

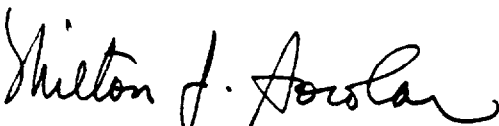
The statutory authority for reimbursing a transferred Federal employee for expenses incurred in the purchase or sale of residences at new and old duty stations is 5 U.S.C. § 5724a(a)(4). Paragraph 2-6.1c of the implementing regulations, Federal Travel Regulations, FPMR 101-7 (Supp. 4, effective October 1, 1982),^{2/} provides that title to the residence must be in the name of the employee alone, 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. We consistently have held that where the employee holds title to a residence with an individual who is not a member of his immediate family, the employee may be reimbursed only to the extent of his interest in that residence. Thomas A. Fournier, B-217825, August 2, 1985; Gary M. Bria, B-217936, June 24, 1985; Patricia A. Wales, 61 Comp. Gen. 96 (1981). The travel regulations define immediate family in terms of a spouse, child, or other named dependent who bears that relationship to the employee

^{2/} Incorp. by ref. 41 C.F.R. § 101-7.003. These regulations are restated for Department of Defense employees in the Joint Travel Regulations, vol. 2.

at the time he reports to his new duty station. FTR, para. 2-1.4d. This definition must be examined in connection with other provisions concerning reimbursement of real estate expenses in order to correctly determine the time at which the co-owner must be a member of the employee's immediate family. Both 5 U.S.C. § 5724a(a)(4) and FTR para. 2-6.1 provide that an employee must have been required to pay those real estate expenses for which reimbursement is sought. Our decisions, cited above, which provide that reimbursement should be limited to the extent of an individual's interest when he holds title with someone who is not a member of his immediate family are based on the presumption that in such situations the liability for expenses is shared. Alan Wood, 64 Comp. Gen. 299 (1985).

Since the expenses of residence transactions are generally paid at settlement, we have determined that the manner in which title is held at the settlement date is the determining factor. Roger Peele, B-216204, February 22, 1985. In this case, since at the time of settlement, Mr. Stampone was not yet married to his co-owner, he did not hold title with a member of his immediate family when the property was actually purchased. The fact that Mr. Stampone and his fiancée later married does not qualify him for full reimbursement under FTR para. 2-6.1c.

For the above reasons, Mr. Stampone was entitled to be reimbursed for only 50 percent of his allowable residence transaction expenses.

for 
Comptroller General
of the United States