The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Michael W. Rolf

File: B-224906

Date: November 17, 1986

DIGEST

Under paragraph 2-6.1e of the Federal Travel Regulations, a transferred employee has 3 years (including a 1-year extension) from the date of reporting at his new duty station in which to incur real estate transaction expenses in order to qualify for reimbursement of real estate purchase or sale expenses. Where closing on purchase of new residence was delayed pending outcome of lawsuit seeking rescission of purchase contract, employee exceeded 3-year period and may not be reimbursed since neither his agency nor the Comptroller General may waive the 3-year period provided for by this regulation.

DECISION

A transferred employee who is eligible for real estate purchase expenses under 5 U.S.C. § 5724a is entitled to reimbursement only if the settlement date for the purchase of his new residence occurs within 3 years of the date on which he reported to his new duty station. In this case we are asked whether extenuating circumstances that delayed settlement warrant reimbursement for real estate expenses incurred by an employee more than 3 years after his transfer.[1] The employee may not be reimbursed since there is no authority to waive the time limitation established by regulation.

BACKGROUND

Michael W. Rolf, an employee of the Federal Bureau of Investigation, was transferred from Phoenix, Arizona, to Toledo, Ohio. He reported for duty in Toledo on August 17, 1982. On August 16, 1982, Mr. Rolf signed a land contract for the purchase of a residence in Perrysburg, Ohio. As

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[1] The matter was submitted for an advance decision by William E. Burrows, Jr., an authorized certifying officer of the Federal Bureau of Investigation.

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stated in the contract, Mr. Rolf made an initial downpayment on the property and agreed to make 24 monthly payments. After this initial 24-month period, he was required to tender the balance of the contract price in exchange for transfer of title to the property.

Mr. Rolf did not make all 24 payments as required under the contract. Rather he sued for rescission of the contract, alleging that the seller had made material misrepresentations of facts. A trial on the case was held on July 31, 1985, resulting in judgment for the defendant seller. On August 5, 1985, after having lost the lawsuit, Mr. Rolf applied for permanent financing to purchase the property in accordance with the terms of the contract. Although the lending institution processed his application expeditiously, closing did not take place until September 9, 1985, more than 3 years after he reported for duty at his new duty station.

Consistent with the applicable law and implementing regulations, Mr. Rolf's agency has denied his claim for reimbursement of residence purchase expenses since the closing took place more than 3 years after he reported for duty at his new duty station. Mr. Rolf has asked that we grant an exception to the regulations in view of the mitigating circumstances involved in his case.

DISCUSSION

The provisions of law governing reimbursement for real estate expenses incurred incident to a transfer of duty station are contained in 5 U.S.C. § 5724a (1982) and regulations issued pursuant thereto by the General Services Administration. The regulation applicable to this claim, Federal Travel Regulations (FTR), para. 2-6.1e (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1983), provides in part:

> "e. Time limitation.
>
> "(1) Initial period. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 2 years after the date that the employee reported for duty at the new official station.
>
> "(2) Extension of time limitation.
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> "(a) Upon an employee's written request, the 2-year time limitation for completion of the sale and purchase or lease termination transactions may

be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year."

Under the above regulation an employee may only be reimbursed for residence transaction expenses that are incurred within a maximum period of 3 years. Since Mr. Rolf reported for duty in Toldeo on August 17, 1982, he had until August 17, 1985, to complete the purchase of his new residence.2/ In numerous cases, we have explained that the time limit for incurring residence transaction expenses may not be waived regardless of the extenuating circumstances involved. See e.g., Charles R. Stebbins, B-215263, October 1, 1984; David N. Carrell, B-215733, September 25, 1984. These decisions merely illustrate the basic rule that the Federal Travel Regulations, implementing the statutory entitlements contained in 5 U.S.C. § 5724a, have the force and effect of law and may not be waived by any department of the Government to accommodate a particular claimant. See Neal McKinney, B-217186, April 3, 1985; C. Curtis Johnson, B-202402, November 5, 1981.

Accordingly, Mr. Rolf may not be reimbursed the expenses he incurred incident to the purchase of his new residence.

for Milton J. Socolar
Comptroller General
of the United States

2/ It is to be noted that normally an employee's entitlement to relocation expenses is governed by the law and regulations in effect on the day he reports for duty at the new duty station. See John J. Jennings, 63 Comp. Gen. 603, 606 (1984). Here, Mr. Rolf's entitlement to residence transaction expenses is governed by the regulation issued on August 23, 1982, which increased the maximum time period, including extensions, from 2 to 3 years for employees whose eligibility had not expired prior to October 1, 1982. See James H. Gordon, 62 Comp. Gen. 264, 266 (1983).