



The Comptroller General
of the United States

Washington, D.C. 20548

Trice

Decision

Matter of: Gregory McGruder - Real Estate Expenses -
Time Limitation

File: B-227587

Date: September 3, 1987

DIGEST

An employee, who transferred to a new duty station effective November 16, 1982, may not be reimbursed for the sale of former residence since settlement did not occur until May 16, 1986, more than 3 years after the date he reported to his new duty station. The 3-year time limitation imposed by paragraph 2-6.1e of the Federal Travel Regulations has the force and effect of law and may not be waived in any individual case. Furthermore, the failure of the employing agency to exercise its discretion to provide private relocation services, including arrangement for the purchase of the employee's former residence, does not provide a basis to allow this claim.

DECISION

BACKGROUND

This decision is in response to an appeal submitted by Mr. Gregory McGruder, an Air Force employee, of a settlement issued by our Claims Group on March 9, 1987 (Z-2864716). Our Claims Group denied his claim for reimbursement of real estate expenses incurred in connection with the sale of his residence more than 3 years after his transfer to a new official duty station.

In November 1982, Mr. McGruder was transferred from Fort Bliss in El Paso, Texas, to Panama, reporting to his new official duty station on November 16, 1982. He was unable to immediately sell his house at his old duty station. Prospective buyers did enter into a contract to purchase the house in April 1986, but the sale was not finalized until May 15, 1986. Due to the difficulty he had selling his home in El Paso, he requested and was granted on October 25, 1985, a 1-year extension of the time limit for which real estate expenses may be reimbursed. Since the initial 2-year limitation would have expired November 16, 1984, the approved extension allowed him until November 16, 1985, to

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sell the house, 3 years from the date he reported for duty at his new official duty station.

In his claim, Mr. McGruder asserts that difficulties with the prospective purchasers securing a government loan, the sluggish economy in El Paso (dependent heavily on the devalued peso in Mexico), the location of the house (25 miles from the city limits), and other reasons prevented him from selling his house within the 2-year period. However, since the settlement for the sale of the house occurred on May 16, 1986, more than 3 years after his original transfer, his claim was denied by the Air Force and also by our Claims Group. Mr. McGruder argues on appeal that the reasons for the delay were beyond his control. He also argues it is discriminatory to allow employees of other agencies the services of relocation contractors who will purchase their homes at fair market rates but to deny his claim.

DISCUSSION

The authority to reimburse real estate expenses incurred by employees pursuant to transfers from one official duty station to another is contained in 5 U.S.C. § 5724a (1982), as implemented by paragraph 2-6.1e of the Federal Travel Regulations (FTR) (Supp. 4, August 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1982). Paragraph 2-6.1e of the FTR sets forth a 2-year time limitation for reimbursement of expenses incurred in connection with real estate transactions, which may be extended by the head of the agency or his/her designee for an additional period of time not to exceed 1 year.

Our Office has consistently held that there is no authority for the reimbursement of expenses incurred in connection with the sale or purchase of an employee's home, regardless of the extenuating circumstances involved, if the employee has failed to meet the applicable time limitation. See Jerald W. Duxbury, B-219222, December 20, 1985; Gabriel C. Brazao, B-188670, January 3, 1978; Robert J. Dion, B-187677, December 3, 1976.

The record reveals that Mr. McGruder's initial 2-year time limitation ended November 16, 1984, and the extension expired on November 16, 1985. However, settlement on the

house did not take place until 6 months after the expiration of the 3-year time limit. Since Mr. McGruder failed to sell his residence within the 3-year time limitation, his claim for reimbursement of real estate expenses must be denied. Moreover, since the time limitation regulations involved were issued pursuant to 5 U.S.C. § 5724a (1982), they have the force and effect of law and, therefore, cannot be modified by this Office, nor by the agency concerned. See 49 Comp. Gen. 145 (1969).

Finally, with regard to Mr. McGruder's argument concerning relocation service contracts, we wish to point out that under the applicable statute, 5 U.S.C. § 5724c (Supp. III 1985), and regulations, Part 12 of Chapter 2 of the FTR (Supp. 11, August 27, 1984), it is within the discretion of the agencies to enter into contracts for relocation services. Such services may include arranging for the purchase of the transferred employee's former residence. However, the fact that the Army did not provide this benefit to Mr. McGruder does not establish a basis to allow his claim for these real estate expenses.

Accordingly, the action taken by our Claims Group denying Mr. McGruder's claim is sustained.

for 
Comptroller General
of the United States