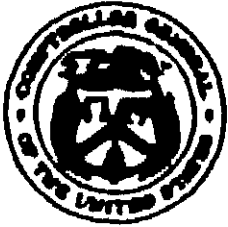


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Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Orvie M. Dahl  
**File:** B-244119  
**Date:** August 16, 1991

### DECISION

Mr. Orvie M. Dahl appeals our Claims Group settlement, Z-2866932, Apr. 15, 1991, disallowing his claim for the real estate expenses associated with the sale of his Vallejo, California, residence incident to a permanent change of station (PCS) transfer. For the reasons stated below, we reverse the Claims Group's settlement.

In the last three years, Mr. Dahl transferred twice in the interest of the government: in August 1988, from the Naval Weapons Station in Concord, California, to the Department of the Navy's Trident Refit Facility, Kings Bay, Georgia; and in March 1989, from Kings Bay to the Department of the Army's National Training Center, Fort Irwin, California. At the time he first learned of his transfer to Kings Bay, Mr. Dahl regularly commuted to his job in Concord from his family's residence in Vallejo, California. Mr. Dahl did not immediately place his Vallejo home on the market, but instead rented an apartment in the Kings Bay area.

Seven months after arriving at Kings Bay, Mr. Dahl sought and obtained a PCS to Fort Irwin because, he stated, the working conditions at Kings Bay were incompatible with his health. After that transfer, Mr. Dahl sold his Vallejo residence and relocated his family in Barstow, California, which is near Fort Irwin. All of the relevant events transpired between July 25, 1988, when the Navy first notified Mr. Dahl of his transfer to Kings Bay, and May 23, 1989, when he settled on the sale of his Vallejo residence.

To be eligible for the reimbursement of real estate expenses associated with the sale of an employee's residence at the old duty station, the applicable statutes and regulations require, among other things, that the home be the one from which the employee regularly commuted to and from work, that the residence be sold within 2 years of the transfer, and that

the transferring employee remain in government service for at least 12 months.1/

Mr. Dahl submitted his claim first to the Army at Fort Irwin, which approved the travel relocation expenses related to his transfer from Kings Bay, but, based on the commuting requirement, denied reimbursement for the expenses associated with the sale of his Vallejo residence. This was proper since, at the time of his transfer to Fort Irwin, Mr. Dahl's permanent duty station was in Kings Bay, Georgia, and he commuted to work there from an apartment located in that area. Therefore, the Army is not obligated to pay for the expenses associated with the sale of Mr. Dahl's Vallejo residence.

Mr. Dahl then submitted his claim to the Navy, which denied the claim because he had sold his residence after leaving Kings Bay for Fort Irwin. The Navy cited a number of decisions from this Office to support its position.2/ However, in each of those cases, the employee either did not complete the residence sale within the applicable time limits and/or the employee claimed expenses for the sale of a home that was not located at the employee's old duty station at the time of the transfer. As explained below, these cases are not applicable here.

At the time of his transfer to Kings Bay, Mr. Dahl's duty station was in Concord, California, and the Navy agrees that Mr. Dahl regularly commuted to his job there from the Vallejo residence. As a matter of law, Mr. Dahl had up to 3 years from the date of his transfer to Kings Bay to sell the Vallejo home. Mr. Dahl's subsequent transfer to Fort Irwin after only 7 months at Kings Bay, without a break in government service, did not deprive him of that entitlement. The 12-month service obligation does not require the employee to remain with the same federal agency that approved the transfer. Finn v. United States, 428 F.2d 828, 192 Ct. Cl. 814 (1970). Based on Finn, we have held that a real estate transaction made within the time limit provided by law is related to the original transfer, even though it may occur after a subsequent transfer to another agency. 51 Comp. Gen. 112, 115 (1970); Alice J. Converse, B-241781, Apr. 15, 1991.

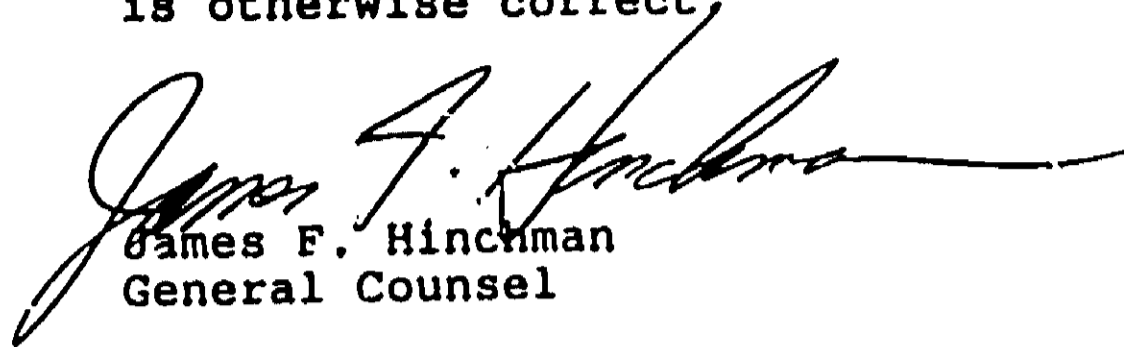
Therefore, the Navy's facility at Kings Bay remains obligated to reimburse Mr. Dahl for the real estate expenses incurred

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1/ 5 U.S.C. §§ 5724, 5724a (1988); Joint Travel Regulations, vol. 2, chapter 14 (Change No. 268, Feb. 1, 1988).

2/ Jack B. Dugwyler, B-200749, Dec. 29, 1980; Robert C. Denz, B-185669, Sept. 29, 1976; B-176687, Oct. 13, 1972; B-171110, Jan. 28, 1971.

in the sale of his Vallejo residence, provided that the claim  
is otherwise correct,

  
James F. Hinchman  
General Counsel