DECISION

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

60206

FILE: B-183389

DATE: NOV 24 1975 97691

MATTER OF: Gerard Wijsmuller, deceased--Reimbursement of widow for expenses incurred in sale of residence after death of employee

DIGEST: Civilian employee died 5 months after effective date of transfer from Bethesda, Maryland, to Atlanta, Georgia, and his widow thereafter sold their former residence more than 1 year after his transfer. Widow is entitled to reimbursement for expenses incurred in sale, and is entitled to extension of 1 year, not to exceed 2 years from the effective date of his transfer, to settle sale of residence under provision of section 2-6.1e of FPMR 101-7.

This matter was submitted for decision by the Director of the Financial Management Office at the Center for Disease Control, Public Health Service, Department of Health, Education and Welfare, in Atlanta, Georgia. The question is whether a voucher dated February 11, 1975, for $3,740 submitted by the widow of a deceased employee for expenses incurred in the sale of their former residence at his old official station, may be certified for payment.

The submission states that Dr. Gerard Wijsmuller's official duty station was changed from Bethesda, Maryland, to Atlanta, Georgia, by a travel order dated May 31, 1973, and that he reported for duty in Atlanta on June 21, 1973. Before Dr. Wijsmuller was able to sell his residence at his old duty station he died on November 14, 1973. In the meantime, his family had joined him in Atlanta on September 15, 1973, and occupied a residence which he had purchased there. On June 5, 1974, Mrs. Wijsmuller, through her attorney, requested that the 1-year limitation on the settlement date for the sale of the residence at the old duty station be extended because Mrs. Wijsmuller had executed a contract for the sale of her former residence on May 29, 1974, but the settlement could not take place before June 17, 1974, a date which was believed to be beyond the expiration of the 1-year time limitation period. The extension of time for the sale of the residence was approved by the Financial Management officer on June 19, 1974, with the notation "Extension meets with my approval provided the General Accounting Office determines that reimbursement of this expense is proper." The scheduled settlement did not take place because the prospective purchasers were unable to obtain financing. Subsequently, another purchaser was found and the settlement was completed on November 18, 1974.

The submission letter states that no binding obligation had been entered into by the employee prior to his death, and it refers to our decision B-162458, October 2, 1967, where, in answer to a general inquiry, we stated that reimbursement would be doubtful if no expenses were incurred or binding obligations entered into prior to the employee's death. However, as the submission points out, the last sentence of that decision states that "[a]ny actual cases of this nature should be submitted here for separate consideration."

Thus, the question involved in B-162458, supra, which we there found "too speculative and broad to permit a definitive answer," is now before us for decision in an actual case. The basic question presented is whether a transferred employee's right to reimbursement for relocation expenses continues after his death and, thus, whether reimbursement may be allowed for such expenses incurred after his death.

The purpose of the statutory provision (5 U.S.C. § 5724a (1970)) authorizing payment of the costs involved in the relocation of transferred employees is to reimburse the extra expenses to which employees are put as a result of transfers of official stations. Under 5 U.S.C. § 5724(a)(1), the right to such reimbursement applies to each employee "transferred in the interest of the Government from one official station or agency to another for permanent duty * * *."

There is no indication in the statute or regulations of any intent to deprive the survivors of a transferred employee of reimbursement for relocation expenses incurred after the employee's death where such expenses would have been reimbursable to the employee had he survived. In fact, both section 5724 and section 5724a of title 5, United States Code, provide for payment of various expenses of the "immediate family" of the employee who is transferred, thus recognizing that the Government's obligation extends beyond the employee himself. In particular, subsection (a)(4) of section 5724a provides for payment of the expenses of selling a residence at the old duty station regardless of whether title thereto is in the employee's name alone or jointly with a member of his immediate family or in the name of an immediate family member alone.

In the present case, Dr. Wijsmuller was actually transferred in the Government's interest, and if he had lived until his former residence was sold, he would have been reimbursed for the various real estate expenses incurred in the sale. Obviously the need of his immediate family to incur such expenses continued after he died and that need arose out of the transfer of Dr. Wijsmuller to Atlanta. Since the purpose of the statute is to reimburse the expenses occasioned by the transfer of an employee, and since such expenses do not cease with his death, we do not regard the right to reimbursement for such expenses as ceasing with his death. See 24 Comp. Gen. 319 (1944) where we ruled to the same effect regarding the shipment of household effects of a deceased employee. Moreover, we do not regard it as material that the employee had not entered into a binding obligation or incurred an expense before his death. As long as the expenses arose in connection with the transfer and would have been reimbursable to the employee, they may be allowed to the same extent as allowable to the employee if he had survived.

Accordingly, we conclude that the real estate expenses incurred by Mrs. Wijsmuller, as evidenced by the closing statement, in selling the former residence in Bethesda may be allowed to the extent authorized in chapter 2, part 6 of FPMR 101-7 (May 1973).

The subsidiary question involved is whether it is proper to grant an extension of time for settlement after the employee's death. The regulation governing the time limitation for the reimbursement of real estate transaction expenses during all pertinent times in this case is set forth in the Federal Travel Regulations (FPMR 101-7), para. 2-6.1e (May 1973). It provides that the head of an agency or his designee may extend the 1-year time limitation by an additional period of time, not to exceed 1 year, "regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station." There is no longer any requirement that a sales contract must be entered into during the initial year.

Our previous interpretation of this provision has been that the regulations, as thus amended, permit an extension of an additional 1 year "to be granted at the discretion of the agency for any justifiable reason as long as the transaction is reasonably related to the employee's transfer." See 54 Comp. Gen. 553 (1975).

Here, the designated official approved the written request for an extension of time, provided that GAO finds reimbursement of the expense to be proper. Since we have held above that reimbursement of the expenses to the employee's widow is proper, the administrative approval of the extension of time is also proper. Accordingly, the voucher for reimbursement of expenses incurred by the widow in the sale of the former residence may be certified for payment.

Our advice is also requested as to whether a second completed SF 1153 ("Claim of Designated Beneficiary and/or Surviving Spouse For Unpaid Compensation of Deceased Civilian Employee") need be obtained from Mrs. Wijsmuller since a disbursement voucher, SF 1154, has previously been executed covering all other unpaid compensation. The original SF 1153 will suffice. However, the supplemental voucher covering the real estate expenses herein approved should contain a citation to the voucher covering the previous payment. See General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, title 4, section 23.3.

R.F. KELLER

Deputy Comptroller General
of the United States