

DECISION

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

FILE: B-185669

DATE: SEP 29 1976

MATTER OF: Robert C. Denz - Relocation Expenses -
Settlement Date Limitation

61064

97959

DIGEST: Fact that employee was transferred three times within 21 months provides no basis for extending settlement date limitation beyond 2-year maximum established by Federal Travel Regulations. Employee may not be reimbursed for sale of home at first duty station under travel order for third transfer because it was not residence from which he commuted to work at time of third transfer.

This advance decision is rendered at the request, dated December 24, 1975, of C. D. Neudorfer, an authorized certifying officer of the Federal Bureau of Investigation, U.S. Department of Justice, as to the propriety of certifying for payment the voucher in favor of Mr. Robert C. Denz for transfer-related real estate expenses.

Mr. Denz was transferred from Washington, D.C., to New York City, New York, effective April 2, 1973. Mr. Denz states that he was orally advised that he would probably be stationed in New York for only 1 year. Therefore he retained his residence in Beltsville, Maryland, where his family remained. He requested and was granted a 1-year extension for completion of real estate transactions associated with this transfer.

Effective May 13, 1974, Mr. Denz was transferred from New York to Portland, Oregon. In August 1974 Mr. Denz moved his family to Portland, and occupied a residence on a month-to-month rental basis, because the length of his tour of duty in Portland was unknown. At that time he leased his former residence in Beltsville for a period of 1 year. He contends that his tenant would not agree to a shorter period.

In February 1975, Mr. Denz was transferred back to New York City. He states that it was requested that he establish his residence in the New York area, and not continue to use his Beltsville home. Because of the year lease Mr. Denz was unable to complete the sale of his Beltsville residence until September 2, 1975. Mr. Denz then claimed reimbursement of the expenses associated

with that sale under the authority of the original orders transferring him from Washington to New York. He contended that the 2-year period should be extended because of all of the uncertainties arising from three transfers within 21 months. In the alternative, he contended that reimbursement would be proper under the orders transferring him from Portland to New York.

Reimbursement of transfer-related real estate expenses is governed by chapter 2, part 6 of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), specifically paragraph 2-6.1 which provides, in pertinent part, that:

"Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station * * * Provided, That:

* * * * *

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for 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."

The definition of official station is found in FTR para. 2-1.41, which provides, in pertinent part, that:

"Official station or post of duty. The building or other place where the officer or employee regularly reports for duty. * * * With respect to entitlement

under these regulations relating to the residence and the household goods and personal effects of an employee, official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work. However, where the official station or post of duty is in a remote area where adequate family housing is not available within reasonable daily commuting distance, residence includes the dwelling where the family of the employee resides or will reside, but only if such residence reasonably relates to the official station as determined by an appropriate administrative official."

Settlement on Mr. Denz' Beltsville residence took place 29 months after he reported to New York under the first set of transfer orders. For the sale expenses to be reimbursable under those orders, the settlement would have to have occurred within 2 years of Mr. Denz' reporting date. We know of no authority to grant extensions beyond the maximum period of 2 years, even when the employee's actions in delaying completion of real estate transactions appear to be prudent because of agency fostered uncertainties about the employee's position. See 49 Comp. Gen. 145 (1969); B-178610, June 21, 1973; and B-182044, April 4, 1975. Therefore, Mr. Denz may not be reimbursed for his real estate expenses under the orders transferring him from Washington to New York.

In order to be reimbursable, sale expenses must be for a residence at an employee's "old duty station." Under the above definition, to qualify as a residence at the old duty station, it must be the one from which the employee regularly commutes to work. See B-176102, September 8, 1972; B-177583, February 9, 1973; and B-183196, February 2, 1976. Therefore, since Mr. Denz' Beltsville residence was not the one from which he commuted to work while in Portland, and Portland is not a remote work area, Mr. Denz may not be reimbursed for the Beltsville sale expenses under the orders transferring him from Portland to New York.

Accordingly, Mr. Denz' voucher may not be certified for payment.

R.F. KELLER

Acting Comptroller General
of the United States