

DOCUMENT RESUME

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[Real Estate Expenses for Residence Not at Official Duty Station]. B-189644. April 28, 1977. 3 pp. + enclosure (2 pp.).

Decision re: Tony D. Linbaugh; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Veterans Administration.

Congressional Relevance: Rep. James Weaver.

Authority: 5 U.S.C. 5724a(a)(4). 47 Comp. Gen. 109. F.T.R. (FPMR 101-7), para. 2-14i.

An employee claimed reimbursement of real estate expenses incurred incident to purchase and sale of residence in Austin, Texas, after transfer from Oregon to duty station in Houston. As he traveled to his residence in Austin only on weekends, he was not entitled to reimbursement, since Federal Travel Regulations require that residence be the one from which employee commutes regularly to and from work. (Author/DJH)

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John A. Carter
Civ. Pers.



DECISION

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

FILE: B-188644

DATE: April 28, 1977

MATTER OF: Tony D. Limbaugh - Real estate expenses for residence not at official duty station

DIGEST: Employee claims reimbursement of real estate expenses incurred incident to purchase and sale of residence in Austin, Texas, incident to transfers from Portland, Oregon, in 1975 and from Houston to Roseburg, Oregon, in 1976. Employee commuted daily from duty station in Houston and traveled to residence in Austin only on weekends. Employee is not entitled to reimbursement since Federal Travel Regulations require that residence be the one from which employee commutes regularly to and from work. Only exception to this requirement is when employee is assigned to remote area and Houston is not remote area.

Tony D. Limbaugh requests reconsideration of a settlement issued by our Claims Division on February 10, 1977, which disallowed his claim for reimbursement for real estate expenses in connection with the purchase and sale of a residence incident to a change of official station.

In May 1975 Mr. Limbaugh was transferred from Portland, Oregon, to the Veterans Administration Hospital (VAH), in Houston, Texas. After moving to the VAH in Houston he purchased a residence in Austin, Texas, approximately 170 miles from Houston. He commuted to Austin on weekends and occupied non-housekeeping quarters on the grounds of the VAH during the week. In 1976 Mr. Limbaugh was transferred to Roseburg, Oregon, and sold his residence in Austin. Mr. Limbaugh states that he purchased a residence in Austin because he was unable to locate suitable family housing in Houston and so that his daughter could attend the same high school she attended in 1972 during an earlier assignment by him in Texas.

Our Claims Division disallowed Mr. Limbaugh's claim for reimbursement of real estate expenses incurred for the purchase and sale of his residence in Austin incident to the transfer to Houston in May 1975, and the transfer from Houston to Roseburg in 1976, respectively, because the residence was not located in Houston, his official station, as required for reimbursement under the Federal Travel Regulations (FTR), FPMR 101-7 (May 1973). Mr. Limbaugh seeks reconsideration on the basis of the exception to this location

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requirement set forth in our decision 47 Comp. Gen. 109 (1967). For the reasons stated below we affirm the disallowance of Mr. Limbaugh's claim.

Section 5724a(a)(4) of title 5, United States Code (1970), authorizes the reimbursement of expenses of the purchase of a residence located at the new official station, or the sale of a residence at the old duty station, when incurred incident to a transfer. At the time our decision 47 Comp. Gen. 109 (1967) was written, the applicable regulations did not define "official station." We stated in that decision that we generally could not authorize reimbursement for the costs involved in the sale of a residence not actually located at the employee's old duty station or at a place to which the employee commuted on a daily basis, but that an exception could be made where the employee was not able to obtain a residence in a location which would permit commuting on a daily basis.

Subsequent to our decision, "official duty station" was defined in the regulations and the exception stated in 47 Comp. Gen. 109 was incorporated therein. Federal Travel Regulations para. 2-1.41 (1973) provides in part as follows:

"* * * 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."

The language of this regulation is clear and unambiguous. It authorizes reimbursement for the expenses of residence transactions incident to a transfer involving a residence "from which the employee regularly commutes to and from work" and limits the exception to

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this requirement to those cases in which an employee is assigned to a remote area where family housing is unavailable. We cannot consider Houston a remote area and Mr. Limbaugh commuted to and from work on a daily basis from quarters in Houston rather than from his residence in Austin.

In view of the above, we affirm the disallowance of Mr. Limbaugh's claim.

Rockwell
Deputy Comptroller General
of the United States



John A. Carter
Civ. Pers.

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

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APR 26 1977

The Honorable Jim Weaver
Member, United States House of
Representatives
211 East 7th Avenue
Eugene, Oregon 97401

Dear Mr. Weaver:

Further reference is made to your letter of March 8, 1977, concerning the claim of Mr. Tony D. Limbaugh, 4416 Hyacinth, Eugene, Oregon 97404, for reimbursement for real estate expenses incident to a transfer.

Enclosed is a copy of our decision of today, B-188644, wherein we affirm the disallowance by our Claims Division of Mr. Limbaugh's claim for reimbursement of the expenses of the purchase and sale of a residence in Austin, Texas, incident to his transfers to and from Houston, Texas. The Federal Travel Regulations require that the residence for which reimbursement of real estate expenses is claimed shall be the one from which he commutes daily to and from work except when he is assigned to a remote area. Mr. Limbaugh did not commute daily to his residence in Austin, and Houston is not a remote area.

We regret that we are unable to make a reply more favorable to your constituent.

Sincerely yours,

R. F. KELLER

Deputy
Comptroller General
of the United States

Enclosure

John A. Carter
Civ. Pers.

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Director, Claims Division

Controler General R.F. KELLER

Tony D. Lisbaugh - Claims for Relocation Expenses -
B-183644-O.H.

Returned herewith is your file No. Z-2712106, concerning the claim of Tony D. Lisbaugh for real estate expenses incident to a transfer, together with our decision of today, B-183644.

Congressman James Weaver has been advised of the disposition of this matter.

Attachment