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DECISION



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

FILE: B-201652

DATE: September 1, 1981

MATTER OF: Fred C. Jackson - Residence Sale Expenses

DIGEST: Employee was transferred from Corps of Engineers' Smithland Project in western Kentucky, to Patoka Lake, near Jasper, Indiana, then subsequently transferred to the Laurel Lake Project near Corbin, Kentucky. The residence he had for sale at his first duty station was sold after his second transfer. He is entitled to residence sale expense reimbursement since that residence was one from which he commuted to work prior to first transfer, sale was effected 5 months after first transfer and evidence shows sale was incident to first transfer.

T. A. Evans, Disbursing Officer, Corps of Engineers, Department of the Army, has requested an advance decision as to whether or not Mr. Fred C. Jackson may be reimbursed real estate expenses associated with the sale of his residence at Paducah, Kentucky.

Mr. Jackson, an employee of the Construction Division, Corps of Engineers, was working at the Smithland Project in western Kentucky, in May 1979, when he was notified that he was transferred from the Smithland project to the Patoka Lake Project near Jasper, Indiana. At the time of the transfer Mr. Jackson owned a home in Paducah, Kentucky, from which he commuted daily to work at Smithland. After Mr. Jackson's transfer, he rented a residence in Jasper, Indiana, from which he commuted daily to work at Patoka Lake. On weekends Mr. Jackson drove the approximately 170 miles from Jasper, Indiana, to Paducah, Kentucky, to be with his family who were still residing at his old residence.

In September 1979, Mr. Jackson was notified that he had been selected for a job at the Laurel Lake Project located near Corbin, Kentucky. On October 9, 1979, Mr. Jackson reported to work at Laurel Lake and on October 17, 1979, he entered

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into an agreement for the sale of his house in Paducah, Kentucky. Mr. Jackson has submitted a travel voucher for \$2,629.41 for real estate expenses connected with the sale of his residence in Paducah.

The record also reveals the following:

"* * * in the case of Mr. Jackson, upon learning of his first transfer in May 1979, he put his Paducah residence up for sale on 31 May 1979 as evidenced by the attached Listing Contract with Forest E. Gilliam, Realtor. The fact that he was unable to sell his Paducah residence prior to his move from Jasper, Indiana to Corbin, Kentucky was possibly the result of a poor real estate market caused by high interest rates during the summer and early fall of 1979. Whatever the reason, it seems abundantly clear that Mr. Jackson has given sufficient evidence of his good faith intent to sell his property at the time of his first transfer."

In light of the above circumstances, the Disbursing Officer asks whether section Cl4000, paragraph 1.3 of the Joint Travel Regulations, Volume II, precludes reimbursement to Mr. Jackson of his real estate expenses.

The latter reference states as follows:

"An employee will be entitled to reimbursement for expenses required to be paid by him in connection with the sale of his residence at his old duty station * * * provided that:

"3. The dwelling at the old duty station was the employee's actual residence at the time he was first definitely informed by appropriate authority that he was to be transferred to a new duty station."

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In order to be reimbursable, residence sale expenses must be for a residence at an employee's "old duty station." Robert C. Denz, B-185669, September 29, 1976. To qualify as a residence at the old duty station, it must be the one from which the employee regularly commutes to work. Denz, supra, Joseph Marcheggiani, B-161795, December 18, 1978.

However, Denz and other similar decisions are not intended to preclude the reimbursement of expenses for the sale of a residence at the first duty station merely because the employee is transferred to a third duty station prior to the sale of the residence, so long as the sale takes place within 1 year, or 2 years if an extension is granted. A successive transfer does not automatically extinguish all of the rights an employee had at the first transfer.

In Denz, the employee sold his residence 29 months after he made his first transfer. In the present case, however, Mr. Jackson put his residence up for sale as soon as he was informed of his first transfer, and the residence was sold 5 months after the first transfer. Therefore, at the time of his first transfer, Mr. Jackson intended on selling his residence and his residence was in fact sold incident to that first transfer. Since the residence at Mr. Jackson's first duty station was his actual residence from which he commuted at the time he was informed of his first transfer, the residence sale expenses are payable in his case in accordance with the first set of transfer orders he received. B-169155, June 30, 1970; B-166752, July 2, 1969.

Mr. Jackson's residence sale expenses may be reimbursed.



Acting Comptroller General
of the United States