

DECISION

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

FILE: B-205869

DATE: June 8, 1982

MATTER OF: William A. Cromer - Relocation Allowances -
Employee Separated From Wife

DIGEST:

1. Transferred employee, separated from wife prior to change of duty station, is not entitled to full reimbursement of expenses incurred in sale of jointly-owned residence at old duty station. For full reimbursement, title to residence must be held by employee alone or with member of employee's immediate family. Since wife was not a member of employee's household at time he reported to new duty station she was not a member of employee's immediate family. See FTR paragraph 2-1.4d.

2. Employee's wife and children moved to new location at the time the employee reported to his new duty station. He is not entitled to reimbursement for transportation and temporary storage of wife's portion of household goods or for temporary quarters subsistence expenses of wife and children since they were not members of his immediate family. Reimbursement may be made for transportation of household goods only if they belong to employee or member of his immediate family at the time shipment or storage begins and temporary quarters subsistence expenses may be reimbursed only if incurred by employee or member of his immediate family. See FTR paragraphs 2-1.4d and 2-5.2a.

C. J. Pellon, an authorized certifying officer with the Internal Revenue Service (IRS), has requested our decision concerning Mr. William A. Cromer's entitlement to certain relocation allowances.

Mr. Cromer was transferred from Columbus, Georgia, to Marietta, Georgia, effective June 15, 1981, and was reimbursed expenses authorized to be paid in connection with that transfer. Subsequent to those payments, the IRS became aware that Mr. Cromer had separated from his wife on July 30, 1980. Mrs. Cromer had filed for divorce on April 6, 1981, and the parties entered into a separation agreement on the same day. A temporary court order was issued which adopted the agreement and awarded custody of the two children to Mrs. Cromer. The court order also provided for division of household goods and directed Mr. Cromer to pay Mrs. Cromer, as a lump-sum payment of alimony, one-half of the net equity received by him upon the sale of their residence. It appears that title to the residence was held jointly by Mr. and Mrs. Cromer. Mrs. Cromer was to have exclusive use of the residence until April 17, 1981, after which time Mr. Cromer was to have exclusive use.

A sales contract for the house was signed on May 19, 1981, and shortly thereafter Mr. Cromer's portion of the household goods were shipped to Atlanta where he occupied temporary quarters and subsequently bought a residence. Mrs. Cromer's portion of the household goods were shipped to Rome, Georgia, where she occupied temporary quarters with her children. The closing on the house sale was held June 8, 1981.

The issues we are presented are whether Mr. Cromer should have been reimbursed (1) for the transportation and temporary storage of Mrs. Cromer's share of the household goods (2) for temporary quarters expenses for Mrs. Cromer and the two children, and (3) for the full expenses of selling the parties' home in Columbus.

We shall first discuss the issue of the house sale expenses. We have concluded that, since the settlement document lists both Mr. and Mrs. Cromer as the sellers, evidencing joint ownership of the residence, Mr. Cromer is entitled to reimbursement for only 50 percent of the sales expenses.

The statutory authority for reimbursing an employee for real estate expenses incurred incident to a transfer is 5 U.S.C. § 5724a(a)(4) (1976), which includes certain requirements relating to the title of the property involved.

These requirements are carried over into the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973), paragraph 2-6.1c, which provides that real estate expenses may be reimbursed so long as:

"The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family."

The term "immediate family" is defined in FTR paragraph 2-1.4d as an employee's spouse, children and certain dependent relatives who are members of the employee's household at the time he reports to his new duty station. We have held that when family members are permanently separated from the employee, they are not in the same "household." See 44 Comp. Gen. 443, 445 (1965); Boyd D. Robinson, B-194350, September 14, 1979.

Thus, since Mr. Cromer held title to the Columbus residence with his wife, he held title with a person who was not a member of his immediate family for purposes of reimbursement of real estate expenses. Our decisions hold that in these circumstances an employee may be reimbursed expenses only to the extent of his interest in the residence. See Thomas G. Neiderman, B-195929, May 27, 1980, and cases cited. Therefore, Mr. Cromer is entitled to reimbursement of 50 percent of the selling expenses. He would be entitled to reimbursement of all the expenses only if he had had sole ownership of the residence.

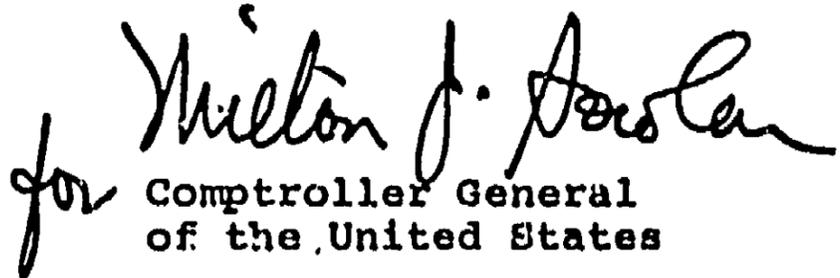
Turning to the issue of the transportation and temporary storage of household goods, Mr. Cromer should not have been reimbursed for the expenses of shipping and storing his wife's portion of the household goods. A transferred employee may ship his household goods to the residence where his family resides although his new duty station is at another location. Reimbursement is allowed up to the constructive cost of shipment in one lot between the old and

B-205869

new duty stations. FTR paragraph 2-8.2d; Ramon V. Romero, B-190330, February 23, 1978. However, "household goods" are defined at FTR paragraph 2-1.4h as property which belongs to an employee and his "immediate family" at the time shipment or storage begins. As shown above, Mrs. Cromer and the children were not in Mr. Cromer's household when the household goods were shipped on May 31, 1981. The separation had occurred almost a year before. Consequently, the shipment of household goods was not to his "immediate family."

Nor should Mr. Cromer have been reimbursed for the temporary quarters subsistence expenses of his wife and children in Rome. Reimbursement of temporary quarters subsistence expenses is limited by the regulations to those expenses attributable to members of an employee's immediate family, in connection with the move to his new duty station. See FTR paragraph 2-5.2a; William H. Maine, B-185727, March 2, 1976.

In light of the above, action should be taken to collect the excess payments from Mr. Cromer.

for  Milton J. Auster
Comptroller General
of the United States