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**DECISION**



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

**FILE:** B-219222

**DATE:** December 20, 1985

**MATTER OF:** Jerald W. Duxbury - Real Estate Expenses -  
Settlement Date Limitation

**DIGEST:**

Employee reported for duty at his new official station on September 20, 1980. Due to delay caused by litigation and occupancy of his residence at his old duty station under purchase agreement, he did not go to settlement on that residence until March 1, 1984. Federal Travel Regulations, para. 2-6.1e, (Supp. 4, October 1, 1982)(FTR), allows a maximum of 3 years for a federal civilian employee to complete transfer-related real estate transactions for entitlement to reimbursement. Claimant's entitlement expired on September 20, 1983, over 5 months prior to sale of residence. Reimbursement of the claimed real estate expenses is not authorized by FTR para. 2-6.1e. The regulation has the force and effect of law and may not be waived or modified.

Mr. Jerald W. Duxbury, an employee of the National Guard Bureau, Departments of the Army and the Air Force, has appealed Settlement Certificate Z-2854908, May 16, 1985, issued by our Claims Group, which denied his claim for reimbursement of the real estate expenses incurred in the sale of his residence, incident to his change of official station. For the reasons stated below, we hold that the Claims Division's settlement is sustained and that the claimed expenses may not be reimbursed.

Mr. Duxbury was authorized a change of permanent duty station from Huron, South Dakota, to Mitchell, South Dakota. He reported for duty at his new official station on September 20, 1980. Reimbursement of real estate expenses

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was authorized. Mr. Duxbury and his wife executed a uniform purchase agreement with David and Anita Kline on October 15, 1980, calling for the Klins to complete the purchase of the Duxbury residence in Huron by November 30, 1982. The Klins took possession of the property on or before the date of the purchase agreement.

In December 1981, the agency granted Mr. Duxbury a 1-year extension of the time for the completion of the sale of his residence. However, the Klins were unable to obtain financing to purchase the Duxbury property. Mr. and Mrs. Duxbury brought suit against the Klins for specific performance, that is, they requested the court to compel the Klins to perform the purchase agreement by paying to the Duxburys the purchase price of the property, plus interest. By memorandum decision dated December 9, 1983, the court denied the relief requested. The property was placed back on the market and was finally sold, with settlement occurring on March 1, 1984. Mr. Duxbury has claimed \$2,148.26 for expenses incurred incident to the sale of the Huron property.

Mr. Duxbury contends that the failure to sell his residence within the specified time limitations, including the extension granted by the agency, was for reasons beyond his control, namely, the delay of more than 1 year caused by the litigation resulting from the failure of the Klins to complete the purchase of the property.

The statutory and regulatory authority for reimbursement of real estate expenses incurred by federal civilian employees upon change of official station is governed by the provisions of 5 U.S.C. § 5724a(a)(4) (1982). The implementing regulations are contained in the Federal Travel Regulations (Supp. 4, October 1, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1984) (FTR). The time limitation for the completion of transfer-related real estate transactions is found in FTR para. 2-6.1e.

The effective date of a transfer for purposes of entitlement to relocation benefits under the FTR is the date the employee reports for duty at his new official station. Neal McKinney, B-217186, April 3, 1985. Mr. Duxbury reported for duty on September 20, 1980. In 1980, paragraph 2-6.1e of the FTR provided that an employee had 1 year from the date he reported for duty at his new official station

to complete the sale of his residence at his old duty station and the purchase of a residence at his new official station. The employee could request a 1-year extension of this period. If the request was granted, the employee then had a total of 2 years from the date he reported for duty at his new station to sell and/or purchase a residence. If settlement did not take place within the 2-year period, real estate expenses incurred could not be reimbursed.


Paragraph 2-6.1e of the FTR was amended effective October 1, 1982, to provide for an initial 2-year period with an additional 1-year extension which, if granted, allowed the employee a maximum period of 3 years within which to complete his transfer-related real estate transactions. This amendment is applicable to employees whose time to complete real estate transactions had not expired prior to August 23, 1982. James H. Gordon, 62 Comp. Gen. 264 (1983). Under the original regulatory provision, Mr. Duxbury's entitlement to reimbursement of real estate expenses expired on September 20, 1982. Under the amended regulation, his entitlement, if extended, would have expired on September 20, 1983. However, the Duxbury residence in Huron was not sold until March 1, 1984, over 5 months after the 3-year entitlement period ended. Therefore, there is no authority, either statutory or regulatory, which would allow reimbursement of the claimed real estate expenses.

We are fully cognizant of the fact that due to conditions beyond the control of Mr. Duxbury, i.e., litigation and occupancy of the Huron residence by the Klines, the sale of the property was delayed for over 9 months. However, we know of no basis for tolling the running of the time limitations set forth in the regulations. Further, this Office has consistently held that the previously cited regulations have the force and effect of law and may not be waived or modified. James H. Gordon, 62 Comp. Gen. 264 (1983); William R. Walberg, 58 Comp. Gen. 539 (1979); DuWayne A. Hansen, B-219292, September 17, 1985, Charles R. Stebbins, B-215263, October 1, 1984; Robert D. Charlesworth, B-214701, June 4, 1984.

Accordingly, there is no legal basis to allow Mr. Duxbury's claim for reimbursement of real estate expenses incurred in the sale of his residence in Huron,

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South Dakota, incident to his permanent change of station.  
The settlement of May 16, 1985, by our Claims Group is  
affirmed.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General  
of the United States