



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Charles Runyon - Time Limitation For Claiming Real Estate Expenses
File: B-233430
Date: December 15, 1988

DIGEST

The Federal Travel Regulations require that a transferred employee go to settlement within 3 years from the duty reporting date in order to be reimbursed for real estate expenses. The agency's omission of an employee's correct duty reporting date is an error apparent on the face of the travel order and may be retroactively modified to reflect the date the employee actually reported for duty.

DECISION

The issue in this decision is whether an employee may be reimbursed for real estate expenses where settlement occurred more than 3 years after the employee was scheduled to report for duty at the new duty station. We hold that the employee may be reimbursed since settlement occurred within 3 years from when the employee actually reported for duty at the new duty station.

BACKGROUND

Mr. Charles Runyon was transferred from Lafayette, New Jersey, to Fort Monmouth, New Jersey, and the Department of the Army initially gave Mr. Runyon the duty reporting date of January 22, 1984. This date, however, was a Sunday and Mr. Runyon did not report to work until Monday, January 23, 1984. Mr. Runyon spoke with the transportation officer at the Department of the Army to try to correct the reporting date to January 23, 1984, and the officer assured him that the Army would modify his reporting date if it became necessary.

Mr. Runyon scheduled settlement for the sale of his residence in Lafayette, New Jersey, for January 22, 1987, but a severe snowstorm precluded settlement on this date.

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Consequently, Mr. Runyon held the settlement on January 23, 1987. Based upon his previous conversations with the transportation officer, Mr. Runyon sought to modify retroactively his duty reporting date to January 23, 1984, in order to fall within the 3-year limitation in which to sell a residence. The transportation officer modified his travel authorization on April 30, 1987, but the Army and our Claims Group denied his claim for real estate expenses on the basis that settlement occurred beyond the 3-year time limitation for claiming reimbursement of real estate expenses.

OPINION

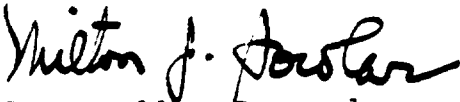
The entitlement to real estate expenses incident to relocation requires the employee to sell or purchase the residence at the old or new duty station within a fixed time limitation. The Federal Travel Regulations provide that the settlement dates for the purchase or sale of a residence must occur not more than 3 years after the date the employee reports for duty at the new duty station. See Federal Travel Regulations (FTR), para. 2-6.1e (Supp. 4, Aug. 23, 1982), incorp. by ref. 41 C.F.R. 101-7.003 (1987). Where settlement occurs only 1 day after this period, the employee may not be reimbursed for the expenses. Gerald W. Frye, B-191018, Dec. 26, 1978.

However, the agency incorrectly stated a duty reporting date of January 22, 1984, which was an error apparent on the face of the travel order, because Mr. Runyon did not report for duty on Sunday, January 22. The Army acknowledges that January 23, 1984, was the correct starting date. Mr. Runyon proceeded with the settlement of the sale of his residence on January 23, 1987, which is exactly 3 years from the date he first reported to work.

As a general rule, a travel order may not be modified retroactively to increase an employee's rights that already vested under existing travel entitlement statutes and regulations. We made an exception to this rule where an error is apparent on the face of the orders and all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the travel order. See Harold R. Fine, B-224628, Jan. 12, 1988. Thus, a travel order may be modified retroactively where it is clearly in conflict with a travel entitlement statute or regulation. See Roy Simpson, B-204951, Mar. 4, 1982.

Under these circumstances, we will accept the Army's retroactive modification of his travel orders to reflect the

date he actually reported for duty at his new duty station. Since settlement occurred within 3 years from that date, Mr. Runyon may be reimbursed for real estate expenses in connection with the sale of that residence.

for 
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of the United States