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Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: Roger W. Montague - Relocation Expenses - House Beyond Commuting Distance of New Duty Station

File: B-251211

Date: February 4, 1993

DIGEST

Employee who transferred from Culpeper, Virginia, to Richmond, Virginia, purchased a residence in Cary, North Carolina, approximately 160 miles from Richmond. The employee states that he selected Cary because he knew he would soon be reassigned from Richmond, he believed near Cary, and because he needed to settle his family in for a new school year and reestablish employment opportunities for his wife. Employee may not be reimbursed for real estate purchase expenses because Cary is not within commuting distance from Richmond.

DECISION

The question in this case[1] is whether Mr. Roger W. Montague, an employee of the Soil Conservation Service, Department of Agriculture, may be reimbursed the real estate expenses he incurred in the purchase of a residence in Cary, North Carolina, upon transfer from Culpeper, Virginia, to Richmond, Virginia. The agency's denial of reimbursement is sustained because Mr. Montague's new residence is not within commuting distance of his new duty station as required by the governing regulations.

The regulations implementing 5 U.S.C. § 5724a(a)(4), the authority to reimburse an employee for real estate expenses incurred in the purchase of a home at the new official station incident to a transfer, provide that the new residence must be located at the employee's new "official station" and that "official station or post of duty also means the residence or other quarters from which the employee regularly commutes to and from work." Federal Travel Regulations (FTR), 41 C.F.R. §§ 302-6.1 and 302-1.4(k) (1991).

[1]Ms. Sandra S. Williams, Authorized Certifying Officer, National Finance Center, United States Department of Agriculture, submitted this question.

We have consistently held that, in general, if the new residence is not within commuting distance of the new duty station, the expenses incurred in purchase of the residence are not allowable, reasoning that if the employee's new residence is not within commuting distance of the new duty station, the purchase is not incident to a change in duty station. Also, the requirement that the employee regularly commute from the residence in question contemplates commuting on a daily basis, not just on weekends or occasionally during the month. Mark S. Alcorn, B-239108. Mar. 15, 1991.

Mr. Montague purchased his new residence approximately 160 miles away from his new duty station in Richmond. This is outside the commuting distance to Richmond, and we have been informed that Mr. Montague did not in fact regularly commute from his new residence in Cary to Richmond. Mr. Montague indicates that he knew that his transfer to Richmond was going to be of limited duration and that he would be retransferred, he believed near Cary.[2] He offers several reasons justifying the purchase in Cary, including saving the government money, and the necessity to settle his children in a permanent school situation and reestablish his wife's career opportunities. He also states that he was allowed to use his old residence near Culpeper as an alternate worksite after he was transferred to Richmond until he purchased his new residence in Cary, and that this renders moot the question of where he chose to purchase a new home.

The only two reasons that we have recognized as being sufficient to overcome the requirement of regularly commuting between the residence and worksite are (1) when the worksite is located in a remote area and adequate family housing is not available within daily commuting distance, and (2) when medical necessity dictates that a family member reside outside daily commuting distance. Mark S. Alcorn, supra. The reasons offered by Mr. Montague do not fall within either exception. Also, the fact that he was allowed to use his old residence in Culpeper as an alternate worksite does not overcome the specific requirement set out in the regulations as to the new residence's location to qualify for reimbursement of purchase expenses.

Thus, although Mr. Montague may have had valid personal reasons for purchasing a residence in Cary, North Carolina, when he was transferred to Richmond, since he did not regularly commute between his residence in Cary and his

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[2]We have been advised that he was subsequently transferred to Texas, not North Carolina.

worksite in Richmond, he may not be reimbursed the real estate expenses of its purchase.

for Seymour Efros
James F. Hinchman
General Counsel