



Comptroller General
of the United States

Washington, D.C. 20548

151088

Decision

Matter of: Glen A. Freeman
File: B-254645
Date: March 14, 1994

DIGEST

Transferred employee claims reimbursement for 100 percent of expenses incurred in the sale of a residence at his old duty station. Employee is entitled to 100 percent reimbursement since he held title jointly with someone who was a member of his immediate family on the date he was first advised of his transfer in accordance with 5 U.S.C. § 5724(a)(4) (1988), and the Federal Travel Regulation, 41 C.F.R. § 302-6.1(c) (1993). His title was not diminished at a later date since he held sole title to the property on the date he reported to his duty station, and at the time of settlement. Our Claims Group determination is overruled.

DECISION

Mr. Glen A. Freeman, an employee of the Federal Aviation Administration (FAA), appeals our Claims Group Settlement. The Claims Group upheld the FAA's determination that Mr. Freeman's reimbursement for allowable expenses incurred in the sale of a residence at his old duty station was limited to 50 percent because title to the property, when he was first notified of his transfer, was held jointly with his former wife. For the reasons that follow, we reverse the Claims Group settlement.

Mr. Freeman was first notified of his transfer from Bethany, Oklahoma, to Kansas City, Missouri, on May 17, 1991, and he reported for duty on June 18, 1991.

In connection with his transfer, Mr. Freeman closed the sale of his residence in Oklahoma on July 25, 1991, and the purchase agreement indicated that he had sole ownership of the property. The record further indicates that on May 31, 1991, a quit claim deed was recorded by Mr. Freeman's attorney. The deed conveyed title to the property in question to Mr. Freeman from his wife. That date also coincided with

the date that Mr. Freeman's divorce became final. The Divorce Decree, which is part of the record, also transferred the property to Mr. Freeman.

Mr. Freeman, as represented by counsel,² has reclaimed the amount denied by FAA, and states that on May 15, 1991, prior to the date he was first notified of the transfer, he purchased his wife's interest in the property. As evidence of this purchase he has submitted copies of a contract/agreement and a quit claim deed that he and his wife signed on May 15. Although the quit claim deed was not dated nor recorded and does not contain a notary public seal, Mr. Freeman's attorney has furnished a statement to the effect that it was his intention to transfer ownership of the property on May 15, 1991, and that he took it upon himself to change the date of the deed to May 31, 1991, to coincide with the date of the final hearing in the divorce proceeding.

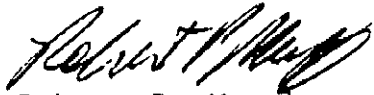
However, we believe that the argument as to the effective date of the quit claim deed is not critical to the disposition of this case. The statutory authority for reimbursing a transferred employee for the expenses incurred in the sale of a residence at the old duty station requires that title to the residence be in the name of the employee alone, in the joint names of the employee and a member of his/her immediate family, or in the name of a member of his/her immediate family alone. 5 U.S.C. § 5724(a)(4) (1988). The Federal Travel Regulation (FTR), reiterates the statutory language and adds that the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his/her transfer to the new official station. 41 C.F.R. § 302-6.1(c) (1993). The FTR also defines "immediate family," as applicable here, to include the employee's spouse. 41 C.F.R. § 302-1.4(f)(i) (1993).

In this case, Mr. Freeman held title with a member of his immediate family, his wife, on May 17, the date he was first notified of his transfer. Mr. Freeman states that he cohabited with his ex-wife until June 6, and this fact is supported by the May 31 Divorce Decree which decreed that his ex-wife had until July 1 to vacate the premises. Thus, at that juncture he met the first requisite of the statute for reimbursement and held title with a member of his immediate family on the date he was first notified of his transfer, May 17, 1991. See, Joel O. Brende, 65 Comp. Gen. 282 (1986); Thomas A. Fournier, B-217825, Aug. 2, 1985.

²Tom R. Stephenson, Stephenson & Webber, Watonga, Oklahoma.

Since Mr. Freemar gained sole title to the residence on May 31, by virtue of the Divorce Decree, and the quit claim deed, he held such title on the date he reported for duty at his new duty station on June 13, 1991, and also on the date of settlement, July 25, 1991. The facts of this case are thereby distinguished from the situation where the employee's rights in the property are later diminished due to a subsequent divorce, and, therefore, the employee holds title at settlement jointly with his former wife who is not a member of his immediate family. See Alan Wood, 64 Corp. Gen. 299 (1985).

Accordingly, title at the date the employee was first notified of the transfer was in the name of the employee and a member of his immediate family, and title on the date of settlement was in his sole name. Therefore, he is entitled to reimbursement of 100 percent of the real estate expenses. Our Claims Group determination is hereby overruled.



Robert P. Murphy
Acting General Counsel