



## Decision

**Matter of:** Gloria M. LaDouceur

**File:** B-258086

**Date:** February 15, 1995

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### DIGEST

A female employee claims that another adult female with whom she has a long-term relationship may be considered as her "spouse" and a member of her immediate family, thereby entitling her to additional relocation expenses. Her claim is denied since there is neither statutory nor regulatory authority for considering another adult female either as the "spouse" of the employee or as a member of the employee's family.

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### DECISION

The National Park Service<sup>1</sup> requests a decision as to whether its employee, Ms. Gloria M. LaDouceur, is entitled to have another adult female, with whom Ms. LaDouceur has a long-term relationship, considered as her "spouse," or as a member of her immediate family, for purposes of reimbursement of additional relocation expenses under the relevant statutes and the Federal Travel Regulation (FTR). For the following reasons, we conclude that the other adult female may not be considered to be the "spouse" of Ms. LaDouceur nor a member of Ms. LaDouceur's immediate family.

### BACKGROUND

The record shows that the National Park Service transferred Ms. LaDouceur in the interest of the government from Massachusetts to West Virginia in 1993. As a result of this transfer, Ms. LaDouceur and the other adult female purchased a new residence in Frederick, Maryland, as joint tenants with right of survivorship. Ms. LaDouceur submitted a claim for full reimbursement of the expenses of her purchase of a new residence under 5 U.S.C. § 5724a (a)(4) (1988) and 41 C.F.R. § 302-6.1 (1993). The agency suspended one-half of Ms. LaDouceur's claim based upon information that Ms. LaDouceur is single and purchased the home with another person who is neither her spouse nor a member of her immediate family.

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<sup>1</sup>This decision was requested by Mr. Jon T. Shrum, Chief, Accounting Operations Division, National Park Service, Department of the Interior, Reston, Virginia. Reference: F5023 (309).

The National Park Service requests our decision because neither the regulations nor prior Comptroller General decisions provide any guidance in this area.

Ms. LaDouceur states that she is not "single" and that she purchased the house at her new duty station with her spousal equivalent. She explains that she has been living together in a committed relationship with the other adult female for almost 3 years, that they share their financial assets, and that they purchased the house together as "joint tenants."

On appeal, Ms. LaDouceur contends that the other adult female should be considered as the equivalent of her spouse and, therefore, as a member of her immediate family. Since the relevant statutes and the FTR provisions governing relocation expenses do not define the terms "immediate family" or "spouse", she believes that our decision should be based on the definition of "spouse" set forth in the Family and Medical Leave Act of 1993, Public Law 103-3.<sup>2</sup> She says that her relationship falls within this broader definition and, therefore, that she purchased the property in question with a member of her immediate family as required by the FTR. She points out that many cities, states, and corporations have successfully incorporated a broader definition of "spouse" than has traditionally been used by the Federal Government, and she asserts that granting her appeal will certainly benefit the Federal Government by providing a work environment free from discrimination on the basis of sexual orientation.

Subsequent to the filing of Ms. LaDouceur's appeal, Congress enacted another law relating to Federal employees' leave which also adopts a broader definition of "family member".<sup>3</sup>

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<sup>2</sup>107 Stat. 6, 9 (Feb. 5, 1993). Although the Act defines "spouse" as husband or wife, Ms. LaDouceur is apparently referring to the implementing policy issued by the Department of the Interior on March 18, 1984 (Personnel Management Letter No. 94-1 Amendment 1). The policy guidance defines "spouse" to include "an individual whose close association with the employee is the equivalent of a spousal relationship."

<sup>3</sup>See 5 U.S.C. § 6307(d)(1), a new section added by § 2 of the Federal Employees Family Friendly Leave Act, Pub. L. No. 103-388, 108 Stat. 4079 (October 22, 1994). The specific regulation to which § 2 of the statute refers, for the definition of "family member," is 5 C.F.R. § 630.902 (1993), which, in relevant part, provides that a family member includes "[a]ny individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship."

## OPINION

Although Congress and the Executive Branch have in several instances adopted a broader definition of spouse or family member for purposes of leave entitlements of Federal employees and other purposes, and although other public and private entities may have also expanded the concept of family membership, our consideration of the present appeal must be based on the provisions of the statutes and regulations governing the reimbursement of relocation expenses to Federal employees. The authority to pay relocation expenses to Federal employees transferred in the interest of the government is found in subchapter II, chapter 57, title 5, U.S. Code (1988), as implemented by the Federal Travel Regulation in 41 C.F.R. chapter 302.

Title 5 U.S.C. §§ 5724 and 5724a (1988) generally provide for the payment of certain relocation expenses of employees transferred in the interest of the government and their immediate families. Title 5 U.S.C. § 5724a (a)(4) (1988) specifically provides that an agency may pay:

"(4) Expenses of the . . . purchase of a home at the new official station . . . [under certain specified conditions]. This paragraph applies regardless of whether title to the residence . . . is in the name of the employee alone, in the joint names of the employee and a member of his immediate family, or in the name of a member of his immediate family alone."

The FTR, in 41 C.F.R. § 302-1.4(f) and § 302-6.1(c) (1994) implements the statutory provision quoted above. For purposes of the FTR provision governing payment of relocation expenses, 41 C.F.R. § 302-1.4(f)(1)(i) (1994) defines "immediate family" to include a "spouse" who is a member of the employee's household at the time the employee reports for duty at the new duty station. Thus, the issue here is whether the other adult female could be considered as the "spouse" of Ms. LaDouceur, and thus a member of Ms. LaDouceur's immediate family, under 41 C.F.R. § 302-1.4(f)(1)(i) (1994).

In the absence of any indication to the contrary in the governing statute (5 U.S.C. §§ 5721 - 5734) or the implementing Federal Travel Regulation (41 C.F.R. chapter 302), we believe that the Congress intended the term "spouse" to be given its generally accepted meaning of "husband or wife," as defined or recognized under state law for purposes of marriage. Our decisions involving issues of marital status have held that "issues of personal status are determined by the applicable state law." Connie P. Isaac, B-247541, June 19, 1992, and decisions cited therein.<sup>4</sup>

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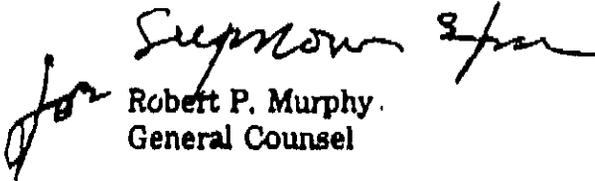
<sup>4</sup>See also Kimberly Lee Hall, 67 Comp. Gen. 138 (1987).

In regard to Ms. LaDouceur's reliance on other provisions broadening the traditional definition of family membership, we note that those definitions are not used in the statutes governing relocation expenses, namely 5 U.S.C. §§ 5724 and 5724a (1988). See e.g. Julia P. Jacobson, B-257916, Jan. 10, 1995 (even if a daughter is a dependent member of claimant's immediate family under the federal income tax statute, that does not necessarily mean that she would be considered as such for purposes of the statute governing entitlement to relocation expenses).

There is no indication in the record that either Maryland or West Virginia recognizes same-sex domestic partners as "spouses" or "spousal equivalents". Therefore, in the absence of authority under state law and on the basis of the generally accepted definition, it is quite clear that the other adult female cannot be considered either as the "spouse" of Ms. LaDouceur or as a member of her immediate family under the statutes or FTR provisions governing relocation expenses, cited above.

In this regard, our decisions have consistently interpreted 41 C.F.R. § 302-1.4(f) and § 302-8.1(c)(1) to mean that an employee who purchases a residence with another person who is not a member of his or her immediate family is entitled only to a pro rata reimbursement of the purchase expenses. See e.g. Heather A. Young, B-255745, Apr. 20, 1994; Kathy L. Keszler, B-253460, Oct. 22, 1993; Gary M. Bria, B-217936, June 24, 1985, and decisions cited therein.

Accordingly, in view of the lack of statutory or regulatory authority, we deny Ms. LaDouceur's claim for additional relocation expenses.<sup>5</sup>

  
Robert P. Murphy  
General Counsel

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<sup>5</sup>See Patricia A. Pierce, B-246829, May 18, 1992, and William D. Fallin, B-210468, Apr. 12, 1983 (decisions denying child-care claims on the basis of lack of statutory authorization).