

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

FILE: B-184987

DATE:

MAY 28 1976

MATTER OF: David L. Toillion - Real Estate Expenses -
Location of Duty Stations

DIGEST:

Employee who served 2-year tour of duty in Argentina between tours in Cheyenne, Wyoming, and Pierre, South Dakota, may not be reimbursed for real estate expenses since statute and regulations require that both old and new duty stations be in the United States, its territories or possessions, the Commonwealth of Puerto Rico or the Canal Zone.

This matter arises from a request for an advance decision submitted by an authorized certifying officer of United States Department of Transportation, Federal Highway Administration concerning the authority for reimbursing Mr. David L. Toillion for real estate expenses incurred incident to two transfers.

Under the authority of Travel Order Number 32-80-071, dated March 5, 1970, Mr. Toillion was transferred from Cheyenne, Wyoming, to Buenos Aires, Argentina, for a 2-year assignment. Mr. Toillion did not sell his home in Cheyenne at that time because he hoped to return to that area when his assignment in Argentina was completed. By Travel Order Number 61-20-091, dated May 8, 1972, Mr. Toillion was transferred from Buenos Aires to Pierre, South Dakota. He then put his Cheyenne residence, which he had been renting, up for sale. The property was sold, with the settlement taking place on September 19, 1973. On October 3, 1973, Mr. Toillion submitted a claim for reimbursement of expenses arising from that sale in the amount of \$3,307.50. There is nothing in the record to indicate that he has made a claim for the purchase of a residence in Pierre.

Reimbursement of transfer-related real estate expenses is authorized by 5 U.S.C. § 5724a(a)(4) (1970) which provides, in pertinent part, that:

"Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be

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paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone * * *."

The requirement regarding the location of the old and the new duty stations is carried over in section 4.1a of Office of Management and Budget Circular No. A-56 (August 17, 1971), the regulations in effect at the time of both transfers, and in paragraph 2-6.1a of the Federal Travel Regulations, FPMR 101-7 (May 1973), the regulations in effect when the settlement on the residence took place.

We have consistently held that the statute and regulations require that both the old and the new duty stations be located within the areas listed. 47 Comp. Gen. 93 (1967) and 54 Comp. Gen. 1006 (1975). This requirement is controlling even when tours of duty at stations within the United States are separated by an overseas tour of duty, B-182002, May 29, 1975, and B-161815, July 6, 1972. The fact that an employee has been unable to take his family with him on the overseas tour of duty does not change the requirement, B-169696, June 2, 1970. Nor can the requirement be circumvented by a short tour of duty at the old duty station in the United States between the overseas tour and the final duty station, B-172594, March 27, 1974.

Mr. Toillion argues that our cases were designed, "to avoid 'double reimbursement,' since the employee normally receives a housing allowance at the overseas post," and that, since he wanted to return to Cheyenne, his transfer to Pierre was purely for the convenience of the Government, so he should be reimbursed. Our decisions have been based solely on the language of the statute. Nothing in the facts of this case or in Mr. Toillion's arguments provides a basis for departing from our prior decisions.

Accordingly, the voucher may not be certified for payment.

R.F. KELLER

Deputy ⁷¹ Comptroller General
of the United States