

00777

Susan Serling
Civ. Pers.

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20540

FILE: B-187677

DATE: December 3, 1976

MATTER OF: Robert J. Dion - Reimbursement for real estate
expenses - Time limitation

DIGEST: HUD employee who transferred from Los Angeles, California, to Albuquerque, New Mexico, and reported to duty on October 14, 1973, may not be reimbursed for real estate expenses of sale of former residence since settlement did not occur until April 30, 1976, more than 2 years after date of reporting. Time limitation imposed by para. 2-6.1e of Federal Travel Regulations has the force and effect of law and may not be waived in any individual case. See 49 Comp. Gen. 145, 147 (1969); B-186024, April 29, 1976.

This action is in response to a request from T. Rivera, Director, Accounting Division, Certifying Officer, Office of Administration, Department of Housing and Urban Development (HUD), Regional Office, Region IX, San Francisco, California, for a decision concerning the propriety of reimbursing Mr. Robert J. Dion for real estate expenses incurred in connection with the sale of his residence incident to a permanent change of station.

Mr. Dion, an employee, of HUD was transferred in 1973 from Los Angeles, California, to Albuquerque, New Mexico, where he reported for duty on October 14, 1973. The employee was granted a 1-year extension of the initial 1-year settlement date limitation for reimbursement of real estate expenses. Contracts for the sale of Mr. Dion's former residence were executed on June 30, 1975, and August 22, 1975, but neither of these sales was completed. A third contract of sale was executed on March 15, 1976, and settlement on the sale transaction occurred on April 30, 1976, more than 2 years after the date the employee reported for duty at Albuquerque. The submission indicates that the delay in settlement was the result of misinformation provided to the employee by the real estate agent with whom he dealt in the first two contracts of sale. Within a short period of time after changing real estate companies, the employee was able to proceed to settlement on the sale of his former residence.

The reimbursement to Federal employees of certain expenses incurred in connection with residence transactions incident to a transfer of duty station is governed by section 5724(a)(4) of title 5, United States Code (1970), and the regulations issued pursuant thereto. At the time of Mr. Dion's transfer, the applicable regulations were contained in the Federal Travel Regulations (FTR) (FPMR 101-7) para. 2-6.1, which provides in part:

" * * * To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station * * *; Provided, That:

* * * * *

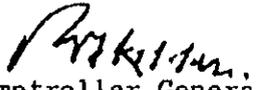
"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefore so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

The above-quoted regulation was promulgated under the statutory authority of 5 U.S.C. § 5724(a) (1970) and has the force and effect of law and, therefore, may not be waived in any individual case. See 49 Comp. Gen. 145, 147 (1969). While it is unfortunate that the sale of Mr. Dion's residence was delayed, the fact that the delay may have been in part due to an alleged disreputable

B-187677

real estate agent does not alter the fact that settlement did not take place until April 30, 1976, more than 2 years after Mr. Dion reported to his new duty station and beyond the maximum time limit permitted by the regulations. See B-186024, April 29, 1976.

Accordingly, reimbursement to Mr. Dion for the real estate expenses incurred may not be made.


Deputy Comptroller General
of the United States