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FILE: B-192441

DATE: December 18, 1978

MATTER OF: Harry G. English - Real Estate Expenses - Settlement Date Limitation

DIGEST: An Employee who transferred from Newport News to Staunton, Virginia, is not entitled to reimbursement for real estate expenses incurred in connection with the sale of his home at old duty station, since settlement did not occur within 2 years of date on which the employee reported to the new duty station, as required by FTR para. 2-6.1e, which regulation has force and effect of law and may not be waived in any individual case.

This action is in response to a request dated July 18, 1978, from M. Aberman, Authorized Certifying Officer, Department of Health, Education, and Welfare (HEW), Region III-Philadelphia, for a decision concerning the propriety of the claim submitted by Mr. Harry G. English for reimbursement of real estate expenses in connection with the sale of ~~his~~ residence ~~at his old duty station~~ more than 3 years after ~~his~~ transfer to a new official duty station.

By Travel Order No. SSA-3-DOO-243, dated January 13, 1975, Mr. English was transferred from Newport News, Virginia, to Staunton, Virginia, and reported to his new official station on February 19, 1975. Mr. English was unable to sell his house at his old duty station until April 28, 1978, when settlement occurred. Due to his difficulty in selling the house, Mr. English requested and was granted a 1-year extension of the time limit for which real estate expenses may be reimbursed. Since the initial year would have expired February 19, 1976, the approved extension carried through until February 19, 1977, 2 years from the date Mr. English reported for duty at his new official station.

In his claim, Mr. English asserts that unforseen difficulties with prospective purchasers securing financing, etc., prevented the sale of his house within the 2-year period, and that he incurred heavy expenses in maintaining the house and made every effort to sell the house through a reputable realtor. However, since settlement for the sale of the house in Newport News was on April 28, 1978, more than 3 years after his original transfer, and 14 months after the extension expiration, his claim was administratively denied.

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With reference to the situation presented, it is well settled that no additional extension of time, beyond the 2-year limit, may be granted. The regulations governing time limitations on residence transactions are contained in paragraph 2-6.1e of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) and provide as follows:

"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 therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

Because Mr. English failed to meet the 2-year time limitation, there is no authority for the reimbursement of expenses incurred in connection with the sale of his home, regardless of the extenuating circumstances involved. See Matter of Gabriel C. Brazao, B-188670, January 3, 1978, and Matter of Michael J. Mahoney, B-189043, July 1, 1977. Moreover, since the time limitation regulations involved were issued pursuant to 5 U.S.C. 5724a(a)(4) (1976), they have the force and effect of law and, therefore, cannot be modified by this Office, nor by the agency concerned. 49 Comp. Gen. 145, 147 (1969).

Accordingly, the voucher submitted by Mr. English may not be certified for payment.

Deputy Comptroller General
of the United States