

PLM-11

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D. C. 20548

10,101

FILE: B-193280

DATE: May 8, 1979

MATTER OF: Steven W. Hoffman

- DIGEST:
- (1) Employee incurred expenses of \$297 in obtaining a release from a binding contract for the construction of a home at his old duty station after notice of a permanent change of station. He may have those expenses reimbursed as miscellaneous expenses to the extent authorized under para. 2-3.3b of the FTR.
  - (2) Employee rented a truck to aid in moving to his new duty station. He submitted a voucher for the expense of renting the truck but was told that the voucher could not be processed without a signed statement certifying the weight of the truck. Employee may not be reimbursed the mileage for use of his automobile to obtain this statement since the travel was not official business.

This is in response to a request from Ms. Virginia G. Leist, Authorized Certifying Officer, Internal Revenue Service, regarding a voucher submitted by Steven W. Hoffman, an employee of that agency, concerning [reimbursement of real estate expenses and mileage incident to a permanent change of station.]

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On September 27, 1977, Mr. Hoffman received notification of a change of permanent station from Columbus, Ohio, to Cincinnati, Ohio. Four months prior and without knowledge of his transfer he entered into a contract for the construction of a home in Columbus. The transaction was scheduled for settlement on September 28, 1977. Upon receiving notice of his transfer he engaged the services of an attorney to aid in the rescission of his construction contract and was released from his contract after incurring costs including attorney's fees of \$175 and forfeiture of \$122 loan commitment fee paid to the Dollar Savings Association of Columbus. This fee covered the normal costs for processing the loan to purchase the home.

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Mr. Hoffman contends that he should be reimbursed for these expenses as they were incurred as a direct result of a change in post of duty relating to official business and at a considerable savings to the Government. Had he as an alternative to rescinding the contract completed the purchase of the house and then resold it, the Government could have been liable for reimbursing the expenses incurred in the sale.

The statutory authorization for the reimbursement of expenses incurred in connection with residence transactions is contained in 5 U.S.C. § 5724a (1976). Part 2-6 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) implements the statute, providing guidelines for determining the propriety of real estate expenses.

In a situation similar to Mr. Hoffman's we allowed reimbursement of real estate expenses where an employee, subsequent to receiving a notice of transfer completed the purchase of a residence at his old duty station and then immediately resold it. B-168818, supra, February 9, 1970; B-168186, November 24, 1969.

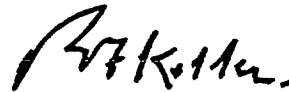
In other analogous situations we allowed reimbursement of forfeited deposits where the claimant entered into a contract to purchase a residence at his old duty station, tendered a down payment, received notice of his transfer and then instead of completing the purchase entered into an agreement with the builder whereby the claimant was released from his contract if he forfeited the deposit. Matter of David D. Lombardo, B-190764, April 14, 1978; 55 Comp. Gen. 628 (1976); Matter of Mark S. Siegler, B-180377 August 8, 1974; B-177595, March 2, 1973. In the above cases reimbursement could not be on the basis that they were real estate expenses. However, reimbursement was permitted as a miscellaneous expense pursuant to paras. 2-3.1 et seq. of the FTR. We see no meaningful difference between the forfeiture of a deposit in order to be released from a purchase contract and the incurring of expenses in order to accomplish the same objective where, as here, the expenses seem reasonable.

Therefore, we will not object to reimbursement of the attorney's fee and the deposit forfeited to the bank as

miscellaneous expenses pursuant to para. 2-3.3(b) FTR which provides:

"Allowances in excess of those provided in 2-3.3a may be authorized or approved, if supported by acceptable statements of fact and either paid bills or other acceptable evidence justifying the amounts claimed; provided that the aggregate amount does not exceed the employee's basic pay at the time the employee reported for duty, for 1 week if the employee is without an immediate family or for 2 weeks if the employee has an immediate family. In no instance will the amount exceed the maximum rate of grade GS-13 provided in 5 U.S.C. § 5332 at the time the employee reported for duty. The entire amount claimed under 2-3.3b (including the amount otherwise payable without such documentation under 3-3.3a) must be supported as required above."

Mr. Hoffman also seeks reimbursement for mileage expenses. To aid in the completion of his move he rented a truck, subsequently submitting a voucher for the reimbursement of the rental payment. In order to process this voucher, the Voucher Unit required a signed paper from the rental agent certifying the weight of the truck. Since written proof of the weight was required, Mr. Hoffman traveled by his privately owned automobile to acquire the statement. It is this mileage for which he seeks reimbursement. Neither the Federal Travel Regulations nor 5 U.S.C. § 5724 (1976) provide for mileage reimbursement when a privately owned automobile is used except for travel on official business or transportation of an employee from his old duty post to his new post of duty. Since the travel was not official business the expenses may not be reimbursed.



Deputy Comptroller General  
of the United States