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DECISION



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

FILE: B-193728

DATE: August 10, 1979

MATTER OF: Jan Unterzuber - [Real Estate Expenses Incident to Overseas Transfer]

D-66-02563

- DIGEST:**
1. An employee, who was transferred from Washington, D.C., to Australia, is not entitled to reimbursement for real estate expenses since both the old and new duty stations were not located within the United States, its territories and possessions, Puerto Rico, or Canal Zone. See 5 U.S.C. § 5724a (1976).
 2. An employee received assurances that he would be reimbursed for the expenses of selling a residence incident to his transfer to an overseas post, although such assurances were contrary to 5 U.S.C. § 5724a (1976). He may not be reimbursed for real estate expenses even though he acted on reliance thereon since, in the absence of specific statutory authority to the contrary, the United States is not responsible for erroneous acts of its officers, agents, or employees. See court cases cited.

This action is in response to a request by George A. Noggle, Commanding Officer, Naval Communication Station, Harold E. Holt, FPO San Francisco, California, for an advance decision concerning the entitlement of Mr. Jan Unterzuber, an employee of the Department of the Navy, to be reimbursed for real estate expenses in the amount of \$2,340.70 incident to a permanent change of station to an overseas duty station.

The record indicates that on September 14, 1978, Mr. Unterzuber was transferred from the Naval Sea Systems Command, Washington, D.C., to the Naval Communication Station, Exmouth, Western Australia. Prior to the permanent change of station, Mr. Unterzuber was advised that he would be reimbursed for real estate expenses connected with the sale of his home in Virginia, and such reimbursement was authorized in his travel order dated August 9, 1978. Mr. Unterzuber sold his home on September 12, 1978, and he later claimed real estate expenses in the amount of \$2,340.70. Upon arrival in Western Australia, Mr. Unterzuber filed his travel claim and was then advised that real estate expenses were not authorized for

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transfers from the United States to overseas activities. Mr. Unterzuber states that the authorization for reimbursement was the controlling factor in his decision to sell his home rather than to rent it. Since he would suffer a financial hardship if these expenses are not reimbursed, Mr. Unterzuber requests our determination as to whether the Department of the Navy is liable for these expenses. George A. Noggle, the Commanding Officer, Naval Communication Station, Harold E. Holt, has no objection to Mr. Unterzuber's request. He states that Mr. Unterzuber's actions were taken in good faith and that his financial loss was solely caused by erroneous verbal and written assurances given by his previous employing activity.

The authority for reimbursement of travel, transportation and relocation expenses for Mr. Unterzuber is contained in 5 U.S.C. §§ 5724 and 5724a (1976) and the implementing regulations contained in the Federal Travel Regulations (FTR). Section 5724(a)(4) provides, in pertinent part, for the reimbursement of:

"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 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. * * *" (Emphasis added.)

The regulations which specifically cover Mr. Unterzuber in this case, Department of Defense Joint Travel Regulations Vol. II, chapter 14, contain a similar provision requiring that the old and new duty stations be located within the United States, Commonwealth of Puerto Rico, or the Canal Zone in order for an employee to be reimbursed for expenses for the sale or purchase of a residence. See Vol. II, JTR, para. C14000.

It is clearly evident that the law and regulations governing reimbursement for real estate expenses on relocation relate only to residence moves where both the old official station and the new official station are within the United States, its territories and possessions. See John S. Treadwell, B-192659, February 14, 1979. Therefore, there is no authority for the reimbursement of Mr. Unterzuber's real estate expenses.

In the present case, Mr. Unterzuber claims that he relied on verbal and written assurances by a Government employee that he would be reimbursed for his real estate expenses. However, it is a well-settled rule

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that in the absence of specific statutory authority, the United States is not responsible for the erroneous acts of its officers, agents, or employees, even though committed in performance of their official duties. See Utah Power and Light Co. v. United States, 243 U.S. 389 (1917); Montilla v. United States, 457 F.2d 978 (Ct. Cl. 1972).

Accordingly, Mr. Unterzuber's claim for reimbursement of his real estate expenses incident to his permanent change of station to an overseas post is denied.


Acting Comptroller General
of the United States