

12836

Plm-11
Mr. Browne



DECISION

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

FILE: B-195264

DATE: February 12, 1980

MATTER OF: Simon Mouer ^[REQUEST FOR]
~~Real Estate Expenses~~]

- DIGEST:
- (1) Employee of Corps of Engineers was granted extention of time to purchase residence in Winchester, Virginia, after notice of overseas transfer. Since employee has reemployment rights to Winchester and Winchester is employee's "actual place of residence" for purposes of overseas tour, granting of extention was proper. See cited decisions.
 - (2) Employee, who purchased two adjacent townhouses with intent to convert them into one unit, may be reimbursed only for cost of one townhouse. FTR para. 2-6.1 limits reimbursement to one dwelling.

AGC00648

Mr. W.W. Bradley, Finance and Accounting Officer, Middle East Division, Corps of Engineers, has requested an advance decision on the voucher of Mr. Simon Mouer for reimbursement of real estate expenses for the purchase of two townhouses in Stephens City, Virginia. The case has been assigned PDTATAC Control No. 79-19.

The record shows that Mr. Mouer, an employee of the Corps of Engineers, was issued travel orders on August 11, 1976, for a permanent change of duty station from New Orleans, Louisiana, to Rear Echelon, USAED, Middle East, Winchester, Virginia. He reported for duty in Winchester on August 16, 1976. On December 13, 1977, he was issued travel orders for a transfer to Saudi Arabia. On December 14, 1977, Mr. Mouer requested an extension of time to purchase a house in connection with his transfer to Winchester. In the request he stated that he would be returning to Winchester after his tour of duty in Saudi Arabia. The extention was granted on January 25, 1978.

Mr. Mouer reported for duty in Saudi Arabia on February 7, 1978. On August 1, 1978, he purchased two adjacent 2-bedroom townhouses in Stephens City, Virginia, which he intends to convert into one 4-bedroom townhouse. On August 12, 1978, he submitted a voucher for reimbursement of real estate fees in connection with his purchase in the amount of \$625.00.

~~008659~~ / 111556

The Finance Officer in his submission questions whether Mr. Mouer is entitled to payment in light of the fact he purchased the residence after being informed of his overseas transfer and the residence requirements of FTR para. 2-1.4i.

Real estate expenses for buying a house upon transfer are governed in FTR para. 2-6.1 which requires in 2-6.1b that the residence be the one from which the employee regularly commutes to work as defined by para. 2-1.4i. Paragraph 2-6.1e permits the time period within which real estate transactions must be completed to be extended from 1 year to 2 years "so long as it is determined that the particular residence transaction is related to the transfer."

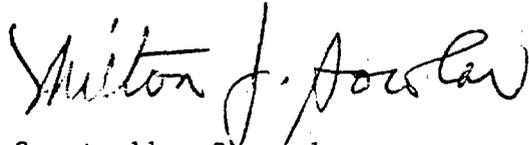
The Corps of Engineers granted Mr. Mouer an extension with the knowledge of his pending transfer to Saudi Arabia with reemployment rights. We held in Matter of Ronald F. Houska, B-191087, March 14, 1978, and February 28, 1979, that the determination by an agency to grant an extension in accordance with FTR para. 2-6.1e will not be disturbed unless found to be arbitrary and capricious. Also see B-182572, October 9, 1975. We cannot say that the agency's action in this case was arbitrary or capricious. Although Mr. Mouer was being transferred at the time the extension was granted, his transfer was to an overseas location with no entitlement to real estate expenses upon return. Yet for the entire time he is overseas, including overseas tour renewals, his rights are based on his "actual place of residence" which is Winchester (Stephens City), Virginia. (FTR para. 2-1.5g(3)).

With regard to the residence requirement of para. 2-6.1b, we held in 54 Comp. Gen. 67 (1974) that an employee may be reimbursed for real estate expenses when he is prevented from occupying a house due to a transfer.

Finally, regarding Mr. Mouer's purchase of two townhouses, FTR para. 2-6.1 permits reimbursement of the costs of purchasing one dwelling. Although Mr. Mouer intends to convert the two townhouses into a single unit, the fact remains that he has requested reimbursement for the cost of purchasing two separate dwellings. Since FTR para. 2-6.1 restricts reimbursement to one dwelling regardless of the circumstances, his entitlement is so limited.

B-195264

Accordingly, the voucher may be certified for payment in accordance with the above, if otherwise correct.

A handwritten signature in cursive script, reading "Milton J. Fowler". The signature is written in dark ink and is positioned above the typed name.

For The Comptroller General
of the United States