

DECISION



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

[Claim for Reimbursement of

FILE: B-195929

DATE: May 27, 1980

MATTER OF: Thomas G. Neiderman - Real Estate
Expenses - Title Requirement

DIGEST: Relocated employee sold residence at old duty station which he jointly owned with his divorced wife. For reimbursement of sale expenses Federal Travel Regulations require that title to residence be in name of employee alone, or in joint names of employee and one or more members of his immediate family, or solely in name of one or more members of his immediate family. Under these regulations, an employee's former spouse is not a member of his immediate family. Reimbursement of real estate expenses is therefore limited to the extent of employee interest in residence, in this case 50 percent.

This matter concerns the appeal of Mr. Thomas G. Neiderman, an employee of the Public Health Service, Department of Health, Education and Welfare, from the disallowance of his claim by our Claims Division for reimbursement of real estate expenses incurred incident to his change of permanent duty station. AGC00160

By Travel Order No. 042989, dated August 6, 1976, Mr. Neiderman was transferred from Salt Lake City, Utah, to New Orleans, Louisiana. In accordance with the above travel order, Mr. Neiderman was entitled to reimbursement of allowable expenses incurred in selling his residence at his old official station, Salt Lake City. The report shows that title to the residence sold at the old duty station in the latter part of 1976 was listed in the names of the employee and his former wife.

The statutory authority for reimbursing an employee for real estate expenses incurred incident to a transfer is 5 U.S.C. § 5724a(a)(4) (1976), which includes certain requirements relating to the title to the property involved. These requirements are carried over into the Federal Travel Regulations (FPMR 101-7) para. 2-6.1c (May 1973)(FTR), which states in pertinent part that real estate expenses may be reimbursed provided that:

"The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling

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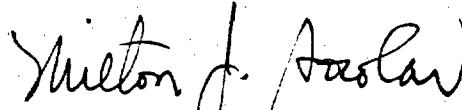
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or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or more members of his immediate family." (Emphasis added.)

In connection with the foregoing, paragraph 2-1.4d of the FTR at the time in question defined "immediate family" as any of the following members of the employee's household: spouse, certain children, or dependent parents of the employee or of the employee's spouse. Clearly a former wife is not included in this definition. Our decisions hold that an employee in these circumstances may be reimbursed his expenses only to the extent of his interest in the residence, in this case 50 percent. Gerald S. Beasley, B-196208, February 28, 1980, James A. Woods, B-184478, May 13, 1976.

Accordingly, the disallowance of Mr. Neiderman's claim is sustained.



For the Comptroller General
of the United States