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DECISION

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

FILE: B-202670**DATE:** December 4, 1981**MATTER OF:** Reimbursement of Real Estate Expenses -
Foreclosure Sale

DIGEST: Employee of the Forest Service sold residence within 1 year of transfer in a sheriff's sale under court order following foreclosure. Employee may not be reimbursed under 5 U.S.C. § 5724a(a)(4) for costs assessed by the court in connection with foreclosure and sale since FTR para. 2-6.2c specifically precludes reimbursement for costs of litigation.

The Department of Agriculture's National Finance Center has requested a decision on the propriety of certifying an employee's voucher for expenses incurred in connection with the foreclosure sale of her residence at her old duty station. The agency questions whether a foreclosure sale is a residence transaction for which real estate expenses may be reimbursed under 5 U.S.C. § 5724a(a)(4). While the fact that title was transferred other than by the usual real estate sale transaction does not preclude reimbursement, the implementing regulations prohibit reimbursement of those costs associated with the judicial process of foreclosure.

The particular employee, who was transferred from Grants Pass, Oregon, to Eugene, Oregon, in September 1979, was unsuccessful in her attempts to sell her Grants Pass residence. When the employee defaulted by failing to make timely payment under the land sales contract by which she had purchased the property, the seller foreclosed. On August 18, 1980, the property was sold at sheriff's sale pursuant to a writ of execution and order for summary judgment by the Circuit Court of the State of Oregon for Josephine County. The expenses for which the employee claims reimbursement are the following costs and disbursements allowed under Chapter 20 of the Oregon Revised Statutes incident to the judgment on sheriff's sale:

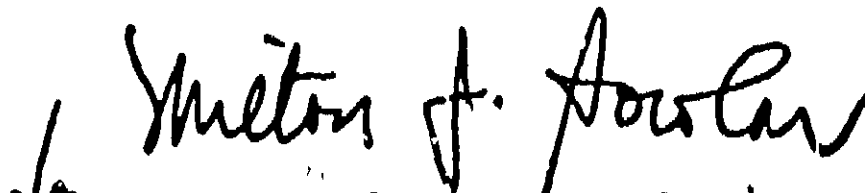
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Attorney Fees	\$750.00
Costs and Disbursements	52.50
Clerk's Fee	2.00
Registered Letters	7.46
Publication Costs	164.18
Sheriff's Fee	<u>62.50</u>
Total Expenses Claimed	\$1,038.64

Reimbursement of real estate expenses incurred in connection with a Federal employee's change of duty station is governed by chapter 2, Part 6 of the Federal Travel Regulations (FPMR 101-7, May 1973)(FTR). Paragraph 2-6.1 of the FTR provides that to the extent allowable "the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station* * *." We have recognized that the regulation permits reimbursement of certain expenses incurred for the purpose of transferring title by other than the usual sale or purchase transaction. See B-173652, October 27, 1971, and B-166419, April 22, 1969.

The fact that title to the employee's former residence was transferred by sheriff's sale as the consequence of foreclosure does not itself preclude reimbursement under FTR chapter 2, Part 6. However, FTR para. 2-6.2c specifically precludes reimbursement for costs of litigation. We have held that the term "litigation" as used in the Federal Travel Regulations means a contest in a court of law to enforce a right, a judicial controversy, a suit at law, an action before a court. See 48 Comp. Gen. 71 (1968); B-181983, March 25, 1976; B-174315, November 15, 1971. In the instant case the expenses claimed by the employee were assessed incident to the judicial process of foreclosure--an action before a court. As such, they are costs of litigation that may not be reimbursed.

Accordingly, the employee's claim is disallowed.

for 
Comptroller General
of the United States