

DECISION

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

FILE: B-213705

DATE: June 18, 1984

MATTER OF: Samuel T. Bardelson - Real Estate
Sales Expense Reimbursement

DIGEST:

Employee who owned a residence at his old duty station in Menlo Park, California, may be reimbursed the expenses of its sale incident to his transfer to Grants Pass, Oregon. Although he and his family were not residing in the house on the date he was first definitely informed of his transfer, they would have resided there, but for the fact that he was away from his old duty station for 11 months prior to the transfer on temporary duty assignments.

This decision is in response to a request from the Acting Chief, Branch of Financial Management, Geological Survey, Department of the Interior, concerning the entitlement of Mr. Samuel T. Bardelson, to be reimbursed for real estate sales expenses incident to a permanent change of station in October 1982. We conclude that he is entitled to be reimbursed those expenses.

FACTS

Mr. Bardelson, an employee of the Geological Survey, Western Mapping Center, was assigned to its Menlo Park, California, office in 1979 and purchased a house in nearby Redwood City, California. He and his family occupied that residence until January 1981 when he was sent to Fallon, Nevada, for extended training assignment. He returned to Menlo Park in May 1981 and continued to live in the house until December 1981. At that time, he was assigned on temporary duty to a field project in Needles, California, where he remained until April 1982, when he was reassigned to temporary duty in Grants Pass, Oregon. On October 20, 1982, Mr. Bardelson was officially transferred to the Grants Pass office as a permanent change of station.

When Mr. Bardelson went on extended field duty in Needles, California, his family traveled with him and he rented out his Redwood City residence. He says that he

included in the lease a provision requiring the tenant to vacate the house upon 30-day notice. He did so because he was told that he could be recalled to Menlo Park at any time. He placed the bulk of his household goods in commercial storage and stored some of the goods in the garage on the premises. After December 1981, neither he nor his family reoccupied the Redwood City house as their residence. When he was permanently assigned to Grants Pass, he decided to sell that house and buy a new house in Grants Pass.

DECISION

Subsection 5724a(a)(4) of title 5, United States Code, authorizes reimbursement of:

"Expenses of the sale of the residence
* * * of the employee at the old station
* * *."

Paragraph 2-6.1d of the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), provides:

"d. Occupancy requirements. The dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he/she was first definitely informed by competent authority of his/her transfer to the new official station."

In addition, FTR paragraph 2-1.4i includes in the definition of "official station" the residence "from which the employee regularly commutes to and from work."

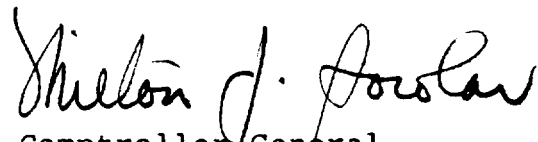
Accordingly, we denied reimbursement of sales expenses where the dwelling sold was not the employee's actual place of residence at the time of notice of transfer. 46 Comp. Gen. 703 (1967). However, we have held that where an employee is constantly in a travel status, and has no single, true official duty station, but only a place so designated for administrative convenience, he may be reimbursed the expenses of selling his home, since it is

impossible for the employee to commute daily from that residence. See Billy L. Kenney, B-188706, December 14, 1978; and Robert A. Van Winkle, B-184004, April 27, 1976.

We have also made an exception to the "actual residence" rule where an employee is away from his old duty station on extended temporary duty at the time when he is informed of a transfer. Thus, in decision Frank M. Lindeen, B-188657, December 30, 1977, the employee was on detail away from his official duty station for a protracted period, during which time he rented out the house from which he ordinarily commuted to work. At the conclusion of his detail he received a permanent change-of-station assignment to a location sufficiently distant from his old official duty station so as to require him to sell his old residence and relocate. In ruling that he was entitled to be reimbursed the expenses of selling that residence, we concluded that, but for that detail performed in the interest of the Government, he would have been living in that residence. See also B-164043, May 28, 1968.

In the present case, Mr. Bardelson would have resided in the house in Redwood City but for the fact that he was detailed to Needles and then to Grants Pass for a total of 11 months on official business. Thus, it was impossible for him to use his Redwood City residence as a home during that time. The fact that his wife and child accompanied him, and that he rented out the Redwood City residence during his temporary duty does not preclude recovery.

Accordingly, payment is authorized to Mr. Bardelson for the allowable expenses incurred upon selling his house in Redwood City, California.

for 
Comptroller General
of the United States