

**DECISION**



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

**FILE:** B-215263

**DATE:** October 1, 1984

**MATTER OF:** Charles R. Stebbins - Real Estate  
Transaction Expenses

**DIGEST:**

An employee who transferred in May 1980, occupied Government quarters at his new permanent duty station immediately upon transfer. In July 1982, he was notified that he had 1 year to vacate those quarters. In June 1983, he purchased a residence there and sold his old residence. He claims reimbursement for real estate expenses incurred 3 years after the date of transfer on the basis that the need to purchase and sell residences did not arise until he was told to vacate those quarters. The claim is denied since under the provisions of Federal Travel Regulations para. 2-6.1e, then in effect, the time limit within which the transactions must occur begins to run when employee reported for duty and expires no later than 2 years after that reporting date. That regulatory limitation does not permit any exceptions and may not be waived.

ISSUE

The issue in this decision concerns the entitlement of an employee to be reimbursed for real estate expenses incurred more than 2 years after his transfer to a new duty station. We hold that the employee may not be reimbursed for expenses incurred beyond the 2-year time limitation then in effect.

BACKGROUND

This decision is in response to a request from Ms. Nancy Williams, an authorized certifying officer with the National Park Service, Department of the Interior. The matter involves the entitlement of Park Police Officer Charles R. Stebbins to be reimbursed real estate expenses incident to a permanent change-of-station transfer.

Officer Stebbins was transferred from Washington, D.C., to New York City, New York, by Travel Authorization dated

April 3, 1980. He was informed at that time that Government quarters would be available to him at Fort Wadsworth on Staten Island, New York, if he wanted them. While he was not required to use Government quarters, he was apparently encouraged to use them because of their proximity to his new duty station. He moved into Government quarters upon transfer.

At the time of his transfer, he rented out his residence at his old station rather than sell it, based on his belief that he might be returning to Washington in several years. Although the Park Police previously had a policy to transfer officers to different locations for a 2-year period and then return them to their former permanent duty stations, this policy was changed in 1977, and all transfers thereafter were for indefinite periods.

Notwithstanding the fact that Officer Stebbins was living in Government quarters, he had been attempting to purchase a home in his new duty station area since shortly after his arrival in 1980. Because of high interest rates and other factors, he had been unable to purchase suitable housing within 1 year of his transfer. By letter dated March 27, 1981, he sought a 1-year extension of the time limit within which real estate transactions incident to his transfer had to be accomplished. By agency action dated April 14, 1981, his extension request was granted. That extension expired in May 1982.

In July 1982, Officer Stebbins and other Park Police personnel living in the Government quarters at Fort Wadsworth were notified that the facilities there would be turned over to the United States Army and that they would have to vacate the premises by May 1983.

In response to that notice, Officer Stebbins renewed his efforts to purchase a home in the area of his new permanent duty station. In November 1982, he placed his old residence on the market and succeeded in selling it in June 1983. He purchased a new residence in New Jersey in May 1983.

The claim presented is for the expenses incurred by him incident to both the sale of his old residence and purchase of his new residence.

The agency recognizes that the claim is doubtful because of the time delay between the date Officer Stebbins entered onto duty in New York and the date the real estate transactions occurred. However, the agency suggests that the claim should be paid since Officer Stebbins was living in Government quarters at his new station and did not need to purchase a residence at his new station and sell his residence at his old station until he was notified to vacate those Government quarters in July 1982.

OPINION

The provisions of law governing reimbursement for real estate expenses incident to a transfer of duty station are contained in 5 U.S.C. § 5724a (1982) and regulations issued pursuant thereto. The regulations in effect at the time the claim arose are those contained in Part 6, Chapter 2, Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Paragraph 2-6.1e of those regulations provides:

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year  
\* \* \*." <sup>1/</sup>

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<sup>1/</sup> This residence transaction eligibility period was extended for an additional year beyond the 2-year period, effective August 23, 1982. GSA Bulletin FPMR A-40, Supplement 4, 47 Fed. Reg. 44,565, October 8, 1982. However, that revision does not apply to employees whose 2-year reimbursement eligibility period expired prior to that date. James H. Gordon, 62 Comp. Gen. 264 (1983).

B-215263

In our decisions in James P. Moore, B-207730, July 7, 1982, and Richard J. Walsh, B-210862, June 9, 1983, citing to 58 Comp. Gen. 539 (1979), we ruled that the period within which the real estate transaction must be completed begins to run from the date the employee reported for duty at his new station. We also held that the additional authorized period of time after the initial 1-year period, may not be extended beyond 1 year. Further, citing to our decisions in Krim A. Ballentine, B-193607, March 8, 1979, and C. Curtis Johnson, B-202402, November 5, 1981, we stated that the FTR's have the force and effect of law and may not be waived or modified by this Office regardless of the circumstances.

In the present case, while the exact date that Officer Stebbins entered onto duty at his new duty station is not contained in the submission, it apparently was sometime in May 1980. Therefore, the period within which the sale of his old residence and purchase of his new residence had to occur in order for his expense reimbursement to be authorized expired not later than May 1982, more than 1 year prior to the time when he actually incurred the real estate expenses.

We recognize that an employee who transfers and lives in Government quarters may delay or avoid buying a residence at the new permanent duty station and selling a residence at the old duty station. However, the regulatory requirement limiting the time for incurring such real estate expenses does not provide for any exceptions. Accordingly, Officer Stebbins' claim for reimbursement must be denied.

for   
Comptroller General  
of the United States