



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Anne Dickinson - Real Estate Expenses - Qualifying
Residence

File: B-236557

Date: September 27, 1989

DIGEST

An employee, who was not occupying her house when she received official notice of a transfer, is entitled to real estate expenses for the sale of the house where arrangements she made evinced an intention to occupy the house but she was prevented from occupying it prior to her transfer notice by circumstances beyond her control.

DECISION

The issue in this case is whether Ms. Dickinson, who did not occupy the house she owned when officially notified of her transfer, is entitled to real estate expense reimbursement. For the reasons set forth hereafter, we conclude that the house did qualify as Ms. Dickinson's residence for purposes of real estate expense reimbursement.

BACKGROUND

Ms. Dickinson purchased the house in 1984 and occupied it, commuting between the house and her duty station, until April 1986, when damage resulting from a flood made the house uninhabitable. Upon being forced to vacate the house, Ms. Dickinson moved into government quarters which her agency, the Forest Service, rented to her. When repairs to her house were completed, in the Fall of 1986, Ms. Dickinson's oldest son moved back into the house. However, Ms. Dickinson chose to remain in the government quarters and rent the unoccupied portion of the house to college students. In the Fall of 1988, Ms. Dickinson decided to move back into the house due to the depressed rental market in the area. In December 1988, she asked her last remaining tenant to leave and he moved out in

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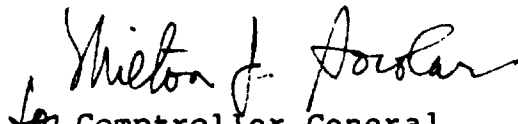
mid-December. However, later in December, before Ms. Dickinson could move back into her house, the pipes froze and the house again became uninhabitable. Therefore, she remained in the government quarters.

Ms. Dickinson received notice of her transfer in late January 1989. The Forest Service does not question that Ms. Dickinson had manifested an intent to move back into her house before she was notified of the transfer. However, it points out that she did not actually reside in the house at that time and, in fact, she had not resided in the house for almost 3 years. Based on these circumstances, the agency contends that the house did not qualify under the applicable provisions of the Federal Travel Regulations,^{1/} which limit selling expense reimbursement to the employee's residence at the time he or she was first officially notified of the transfer.

ANALYSIS AND CONCLUSION

Notwithstanding the literal terms of the Federal Travel Regulations, our decisions have held that an employee who is not occupying his or her house when officially notified of a transfer may be entitled to real estate expenses. See, e.g., Timothy R. Glass, 67 Comp. Gen. 174 (1988), and decisions cited therein. In the Glass case, we allowed reimbursement where the employee was prevented from occupying a house because of damage due to frozen water pipes. Similarly, we have allowed reimbursement in cases where the employee never actually occupied the house for which selling expenses were claimed but where there was a clear intent to do so. See, e.g., 54 Comp. Gen. 67 (1974).

The record in the present case reveals a definite intent to occupy the house on the part of Ms. Dickinson. She was prevented from occupying it by circumstances beyond her control and it appears that she would have occupied it but for her transfer. 54 Comp. Gen. 67, supra. Accordingly, we conclude that Ms. Dickinson is entitled to real estate expense reimbursement with respect to the sale of the house.


for Comptroller General
of the United States

^{1/} Federal Travel Regulations (FTR) para. 2-6.1(d) and para. 2-1.4(i) (Supp. 1, Sept. 28, 1981).