

Putnam



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Mark A. Wohlander

File: B-238300

Date: October 4, 1990

DECISION

This is a request for a decision as to whether Mr. Mark A. Wohlander, an employee of the Federal Bureau of Investigation (FBI or Bureau), U.S. Department of Justice, should be granted an extension beyond 60 days for the occupancy of temporary quarters, incident to his change of official duty station from Dallas, Texas, to Washington, D.C.^{1/} Mr. Wohlander is not entitled to an extension of temporary quarters subsistence expenses (TQSE).

Incident to his transfer, Mr. Wohlander was authorized 60 days of TQSE. He commenced occupancy of temporary quarters on February 9, 1988. Due to the financial hardship created by the sale of his residence, Mr. Wohlander declined to take a househunting trip.

On February 11, 1988, Mr. Wohlander signed a contract to have a new townhouse constructed in Centreville, Virginia, to be completed several months beyond the conclusion of his initial 60 days of temporary quarters occupancy. A low appraisal on the property caused the cancellation of loan processing. A new agreement was negotiated in the form of an option to purchase which was valid until June 3, 1988. Mr. Wohlander exercised his option to purchase and executed another purchase agreement on March 12, 1988, for another townhouse in the same development. Settlement occurred on July 29, 1988, almost 4 months beyond the conclusion of his 60-day occupancy of temporary quarters.

An agency may pay a transferred employee subsistence expenses for himself and his immediate family for an initial period of not more than 60 days while occupying temporary quarters. The head of an agency may grant an extension, not to exceed 60 additional days, provided the agency determines that there are compelling reasons for the continued occupancy of

^{1/} The request was submitted by Mr. William E. Burrows, Jr., Authorized Certifying Officer, Federal Bureau of Investigation, U.S. Department of Justice.

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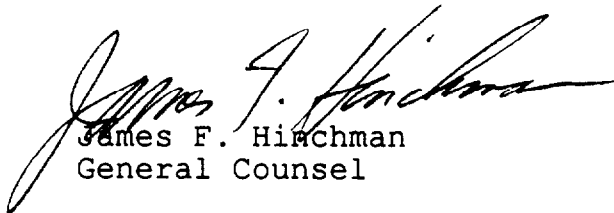
temporary quarters, due to circumstances which have occurred during the initial 60-day period of occupancy and which are beyond the employee's control and acceptable to the agency.^{2/}

The FBI denied Mr. Wohlander's request for an extension of the initial 60-day period, based upon the Federal Travel Regulations (FTR) and the Bureau's current policy set forth in a written communication to its employees, dated May 31, 1985, which states that a transferred employee who elects to build a new residence will be granted an extension beyond 60 days only if the delay in construction or other circumstances are short-term and occur during the initial 60-day period.

This Office has held that the FBI's policy requirement is consistent with and a reasonable implementation of the provisions of the FTR.^{3/} We have interpreted the temporary quarters regulations in the FTR as granting an agency broad discretion to limit the period of temporary quarters, and we will not challenge an agency's determination absent evidence that it was arbitrary, capricious, or contrary to law.^{4/}

We recognize that Mr. Wohlander did not take a househunting trip due to the financial hardship created by the sale of his former residence. However, at the time Mr. Wohlander contracted to have a new townhouse constructed, he knew that its completion was scheduled to occur several months beyond the end of the initial 60 days of temporary quarters. Thus, the low appraisal which caused a further delay in settlement was not an event which caused his occupancy of temporary quarters to extend beyond the initial 60-day period.

Accordingly, the FBI's denial of an extension of temporary quarters beyond 60 days was consistent with the previously cited law, regulations, and agency policy. Therefore, the agency action is sustained.


James F. Hirschman
General Counsel

^{2/} 5 U.S.C. § 5724a(a)(3) (1988); para. 2-5.2, the Federal Travel Regulations (FTR) (Supp. 10, Mar. 13, 1984), incorp. by ref., 41 C.F.R. § 101-7.003 (1988).

^{3/} Paul E. Storer, 67 Comp. Gen. 567 (1988); Arthur P. Meister, B-224884, Sept. 23, 1987.

^{4/} John J. Goglia, B-235177, Aug. 23, 1989; Alexander D. Bell, B-201382, Aug. 26, 1981.