Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: William Buchanan

File: B-245281

Date: February 20, 1992

DIGEST

A transferred employee who failed to complete the sale of his residence at the old duty station within 3 years of the date he reported for duty at the new duty station may not be reimbursed for residence sales expenses incurred thereafter. Thomas L. Chapman, B-230880, Dec. 12, 1988, and decisions cited.

DECISION

This decision responds to a request from an Authorized Certifying Officer, National Finance Center, Department of Agriculture,[1] concerning the entitlement of a transferred employee, Mr. William Buchanan, to be reimbursed real estate expenses incurred incident to the sale of his residence in Raleigh, North Carolina, more than 3 years after he reported for duty at his new station in Washington, D.C. Mr. Buchanan states that, although he reported for duty on September 14, 1987, he appealed that transfer by seeking retransfer to his old duty station as part of an EEO discrimination complaint filed by him in May 1988. He argues that, since his complaint was not resolved until approximately 2-1/2 years later, his transfer did not become final until then and the 3-year limitation period should not begin to run until that time.

Section 302-6.1(e)(1) and (2) of the Federal Travel Regulation (FTR)[2] provides in combination that the settlement dates for the sale of a residence for which reimbursement is requested, must occur not later than 3 years "after the date that the employee reported for duty at the new official station."

[1]Ms. Jeanne DiGange Reference: FSD-1 WDM.

[2]41 C.F.R. § 302-6.1(e) (1990).

In decision Thomas L. Chapman, B-230880, Dec. 12, 1988, we held that, since the provisions of the FTR have the force and effect of law, there was no authority to reimburse real estate expenses where the employee had failed to meet the applicable time limitation.[3]

The record reveals that Mr. Buchanan, an employee of the Federal Crop Insurance Corporation (FCIC), was issued a directed reassignment on July 17, 1987, from Raleigh, North Carolina, to Springfield, Illinois. He refused to report for duty and filed an official grievance appealing that reassignment and requested a change in his new official station to Washington, DC. His request was approved and Mr. Buchanan accepted that transfer and reported for duty in Washington, D.C., on September 14, 1987.

Although Mr. Buchanan had agreed to the transfer to Washington in lieu of the transfer to Springfield, he sought retransfer to Raleigh as part of an EEO discrimination complaint filed by him in May 1988. Notwithstanding that action, in August 1989, shortly before the second anniversary of his transfer to Washington, he requested and was granted a 1-year extension of time until September 14, 1990, to complete his relocation to Washington.

Mr. Buchanan's EEO complaint was resolved by settlement agreement in May 1990 under which Mr. Buchanan was to be promoted retroactively with backpay and allowed to participate in the relocation services program and receive such entitlement as that program authorized. Mr. Buchanan, by signature dated May 29, 1990, agreed among other things to complete all relocation activities by September 14, 1990.

Based on that agreement, Mr. Buchanan was assigned to one of the participating relocation service companies in the Raleigh area on May 31, 1990. He received an appraised offer on his old residence on July 23, 1990, but rejected that offer on August 23, 1990. A reevaluated offer was made to him by the company on September 5, 1990, but Mr. Buchanan did not accept that offer and on September 14, 1990--the last day of the 3-year period allowed under FTR § 302-6.1(e)--he was canceled from the relocation services program.

On October 31, 1990, Mr. Buchanan sold his Raleigh residence and claimed real estate closing costs of $6,134 and expenses for the moving and storage of household goods. The National

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[3]Gregory McGruder, B-227587, Sept. 3, 1987; Jerald W. Duxbury, B-219222, Dec. 20, 1985; and Gabriel C. Brazao, B-188670, Jan. 3, 1978. See also Donald R. Stacy, 67 Comp. Gen. 395 (1988).

Finance Center determined that these expenses were not reimbursable because they were incurred after the date of the 3-year time limitation.

Mr. Buchanan was well aware of the regulatory time requirement. Shortly before the second anniversary of the date he reported for duty at his new station, he requested and was granted a 1-year extension until September 14, 1990, to complete his relocation. Also, he agreed in writing in connection with his EEO complaint settlement that he would complete all relocation activity by that date.

Therefore, since Mr. Buchanan did not complete the sale of his residence in Raleigh, North Carolina, on or before September 14, 1990, the third anniversary of the date he reported for duty at his new duty station he is not entitled to be reimbursed the expenses of that sale.

Seymour Efros
for James F. Hinchman
General Counsel