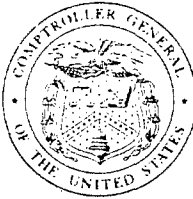


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DECISION



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

FILE: B-196208

DATE: February 28, 1980

MATTER OF: Gerald S. Beasley - Reimbursement for
real estate expenses

DIGEST: Relocated employee sold residence which he jointly owned with his spouse at the time he was first definitely informed by appropriate authority that he was to be transferred to new duty station. Reimbursement of expenses of sale may be made to the extent of employee's interest in residence at the time the property was deeded to the purchaser. However, payment may not be made for an appraisal fee paid before he was definitely informed of his transfer.

A100120 - The Chief, Accounting and Finance, Comptroller, Headquarters Warner Robins Air Logistics Center (AFLC), Robins Air Force Base, Georgia, requests an advance decision concerning payments on a voucher in the net amount of \$3,727.45 submitted for reimbursement of expenses incurred by an employee in the sale of his residence at his old duty station in connection with a permanent change of station (PCS). The request, forwarded by Headquarters United States Air Force, has been assigned Control No. 79-34 by the Per Diem, Travel and Transportation Allowance Committee.

We find that the dwelling at the old duty station was the employee's actual residence which he jointly owned with his spouse at the time he was first definitely informed by appropriate authority that he was to be transferred to the new duty station and that such expenses are reimbursable to the extent of his interest at the time the property was deeded to the purchaser.

Mr. Gerald S. Beasley, an employee of the Department of the Air Force, assigned to Patrick Air Force Base, Florida, after being informed of contemplated plans to abolish certain jobs held by Civil Service personnel and to have those services performed by contractor personnel, was referred to the employing agency at Robins Air Force Base, Georgia, and interviewed for a position on April 12, 1979. He was notified of his tentative selection for employment on April 13, 1979. Mr. Beasley states that based upon his belief that his assignment at Patrick

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Air Force Base was being terminated and that he must seek employment at another installation, he had listed his residence for sale on March 23, 1979. He signed a transportation agreement on May 10, 1979; his PCS orders transferring him to Robins Air Force Base are dated May 11, 1979; and he signed a sales agreement for his house on May 17, 1979. He separated from his wife on May 26, 1979, and after he had reported on June 5, 1979, to his new duty station, they were divorced on June 25, 1979. Settlement on the property was held on June 27, 1979, and in accordance with a property settlement agreement dated June 4, 1979, the net proceeds of the sale after deducting selling expenses were equally divided between Mr. Beasley and his former wife.

The Finance Officer questions whether Mr. Beasley should be reimbursed in any amount since it appears that the home may have been sold because of the separation/divorce of the parties rather than the PCS. If the Government is to reimburse him, it is suggested that since he only owned an undivided half interest in the home that he sold, he should only be reimbursed half of the expenses of the sale. Further, reimbursement of an appraisal fee paid on March 29, 1979, is questioned since it was paid prior to the date of the PCS notice and signing of the travel agreement and since the purchaser assumed the existing mortgage, an appraisal is not customarily provided on such sales.

The statutory authority for reimbursing an employee for real estate expenses incurred incident to a transfer is 5 U.S.C. § 5724a(a)(4) (1976), which includes certain requirements relating to the title in the property involved. These requirements are set forth in the Federal Travel Regulations (FPMR 101-7) para. 2-6.1c (May 1973) (FTR), which states that real estate expenses may be reimbursed provided that:

"The title to the residence or dwelling at the old or new official station, or the interest in a cooperatively owned dwelling or in an unexpired lease, is in the name of the employee alone, or in the joint names of the employee and one or more members of his immediate family, or solely in the name of one or

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more members of his immediate family. For an employee to be eligible for reimbursement of the cost of selling a dwelling or terminating a lease at the old official station, the employee's interest in the property must have been acquired prior to the date the employee was first definitely informed of his transfer to the new official station."

Paragraph 2-1.4d of the FTR (Supp. 4, April 29, 1977) defines "immediate family" as including a spouse but not including a former spouse.

Paragraph 2-6.1d of the FTR provides:

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

The record indicates that Mr. Beasley sold his residence after he had been reliably informed that his position was being abolished, he was referred for interview for a new position, and he was tentatively selected for such position. For the purpose of entitlement to residence selling expenses, a verbal notification of tentative selection for a position constitutes a clear intention to transfer an employee. B-162842, November 22, 1967; B-174051, December 8, 1971. The notification of tentative selection to Mr. Beasley on April 13, 1979, may be considered as an appropriate statement by a competent authority with respect to Mr. Beasley's relocating his residence so as to entitle him to reimbursement of expenses otherwise properly payable with respect to the sale of the residence. B-165796, February 12, 1969. We do not view the subsequent divorce of his spouse after issuance of travel orders as pertinent to those rights to which he was otherwise entitled.

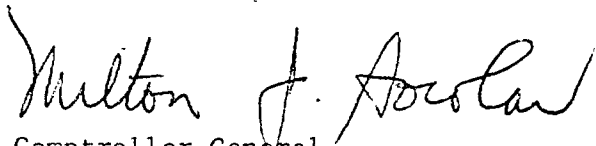
Prior to the sale by Mr. Beasley of the dwelling, a final judgment was entered on June 25, 1979, dissolving his marriage.

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The closing statement indicates that the closing costs were deducted from the gross proceeds of the sale, and the property settlement with his former wife stipulated that the net proceeds were to be divided equally between Mr. Beasley and his former wife. Since he may be reimbursed expenses of the sale only to the extent of his interest in the residence as shown on the real estate transfer documents at the date of the deed, in this case he may be reimbursed only 50 percent of such expenses. B-184478, May 13, 1976; B-174612, July 14, 1972; and B-167962, November 7, 1969.

As Mr. Beasley incurred the expenses of an appraisal fee in March 1979 when he anticipated that he would soon be required to seek a new position but before he was first definitely informed by competent authority of his transfer to the new official station and there was no assurance that the transfer would be made at the time the expenses were incurred, the expenses of the appraisal are personal and not reimbursable. B-123066, April 19, 1955; B-160371, November 21, 1966; 48 Comp. Gen. 395, 397 (1968).

The voucher submitted with the request is returned for payment, if otherwise correct, in accordance with this decision.


For the Comptroller General
of the United States