



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

312.75

B-179157

August 20, 1973

Mr. Joseph A. Pagliasotti
Authorized Certifying Officer
Bureau of Mines
United States Department of the Interior
Building 20, Denver Federal Center
Denver, Colorado 80225

Dear Mr. Pagliasotti:

Reference is made to your letter of July 9, 1973, reference BEM-ADM-Pin, in which you request our decision as to whether you may certify for payment a reclaim voucher submitted by Mr. John Prele, an employee of your agency, for real estate expenses incurred by him in connection with his permanent change of station.

The record indicates that Mr. Prele's residence before joining the Bureau of Mines was located in Yorba Linda, California. He was temporarily living with his father-in-law in Homer City, Pennsylvania, when he was appointed to the Bureau of Mines as a Coal Mine Inspector (trainee). Mr. Prele's first official duty station was Beckley, West Virginia, where he was to receive training as a coal mine inspector. Mr. Prele was assigned to the Beckley, West Virginia office from September 6, 1971, to September 2, 1972. He was then transferred to Denver, Colorado, on September 3, 1972.

Mr. Prele sold his California residence on June 7, 1973; he then submitted a travel voucher on June 18, 1973, claiming reimbursement for his real estate expenses. Such expenses were administratively disallowed on the basis that the residence sold was not located at his old official duty station.

Mr. Prele contends that his first duty station at Beckley, West Virginia, was for training purposes for a known limited period of time at the end of which he knew he would be reassigned to a permanent duty station. The claimant also states that prior to listing the property for sale, he was informed by the administrative officer that the expenses incurred in the sale of his California dwelling were reimbursable.

Section 4.1 of Office of Management and Budget Circular No. A-56, revised August 17, 1971, provides in pertinent part as follows:

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"4.1 Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government will reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station; purchase (including construction) of one dwelling at his new official station; or the settlement of an unexpired lease involving his residence or a lot on which a mobile home used as his residence was located at the old official station; provided that:

* * * * *

"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 that he is to be transferred to the new official station."

The language contained in the above-cited regulation is clear and unambiguous and authorizes reimbursement of selling expenses only in connection with the sale of a dwelling at the old official station and, further, such dwelling must have been the employee's residence at the time he was first definitely informed by competent authority that he was to be transferred to a new official station. The record indicates that Mr. Prele's transfer was from Beckley, West Virginia, while the dwelling that he sold was located in Yorba Linda, California, and was not his residence at the time he was transferred to Denver, Colorado. Consequently, there is no basis on which we can allow the expenses incurred in the sale of the California residence as being incident to the transfer of official station from Beckley to Denver. Cf. 47 Comp. Gen. 109 (1967). See 46 Comp. Gen. 703 (1967). Also, see B-177583, February 9, 1973, B-176102, September 8, 1972, and B-172534, May 25, 1971, copies enclosed.

With respect to Mr. Prele's contention that he was informed by his administrative officer that the expenses incurred in the sale of his California dwelling were reimbursable, it is well established that in the absence of specific statutory authority, the United States is not liable for the negligent or erroneous acts of its officers, agents or employees, even though committed in the performance of their official duties. See B-176102, September 8, 1972, and citations therein.

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In view of the above the voucher returned herewith may not be certified for payment.

Sincerely yours,

Paul G. Dandling

For the Comptroller General
of the United States