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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-197073

December 26, 1979

Maxwell Zelikoff
Supervisory Accountant
Mid-Atlantic Region
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106

Do not make available to public reading

Dear Mr. Zelikoff:

This is in response to your letter of December 3, 1979 (file reference F86 MAR-AF), regarding an employee whose official change of station caused her to break a lease.

It appears that at the time of her transfer Mary Anne Gerbauckas, an employee of the National Park Service, had 3 months remaining on a 1-year lease for which she paid the landlord \$795. You have raised the question whether the employee was required to pay the 3 months rent on the unused portion of the lease, and if not, how much should the employee have reimbursed the landlord.

Although a decision of the Comptroller General is not being issued pursuant to your request the following information may be helpful to you.

The criteria to be applied to determine whether or not an employee is entitled to reimbursement of any of the expenses incurred in settling an unexpired lease upon transfer of duty station are set forth in Federal Travel Regulations, para. 2-6.2h (May 1973), which provided that:

"h. Settlement of an unexpired lease.
Expenses incurred for settling an unexpired lease (including month-to-month rental) on residence quarters occupied by the employee at the old official station may include



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broker's fees for obtaining a sublease or charges for advertising an unexpired lease. Such expenses are reimbursable when (1) applicable laws or the terms of the lease provide for payment of settlement expenses, (2) such expenses cannot be avoided by sublease or other arrangement, (3) the employee has not contributed to the expense by failing to give appropriate lease termination notice promptly after he has definite knowledge of the transfer, and (4) the broker's fees or advertising charges are not in excess of those customarily charged for comparable services in that locality. Itemization of these expenses is required and the total amount shall be entered on an appropriate travel voucher. This voucher may be submitted separately or with a claim that is to be made for expenses incident to the purchase of a dwelling. Each item must be supported by documentation showing that the expense was in fact incurred and paid by the employee."

It appears that since Ms. Gerbauckas was a resident of the State of New York at the time of her transfer, the decision of this Office B-182276, April 10, 1975, would be for application. In that decision we determined that since, under New York law, the landlord had no duty to mitigate damages, the employee who was transferred from New York with 11 months remaining on his lease and who made reasonable efforts to sublet the apartment, could be reimbursed the full cost of the lease settlement. A copy of that decision together with copies of B-173753, September 3, 1971, and B-172947, July 13, 1971, which also deal with this subject, are enclosed for your information.

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We trust that this will serve the purpose of your inquiry.

Sincerely yours,


J. Dean Mosher
Senior Attorney

Enclosures