

**Board of Contract Appeals**  
General Services Administration  
Washington, D.C. 20405

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October 8, 2002

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GSBCA 15887-RELO

In the Matter of ALFRED A. DAVIS

Alfred A. Davis, Leesburg, VA, Claimant.

Cindy Osif, Supervisor/Certifying Officer, Travel/Employee Relocation, National Business Center, Products and Services, Department of the Interior, Denver, CO, appearing for Department of the Interior.

**GOODMAN**, Board Judge.

Claimant, Alfred A. Davis, is an employee of the Department of the Interior. He has requested that this Board review the agency's denial of reimbursement of certain costs associated with the sale of his residence at his old duty station incident to his permanent change of station (PCS) move.

Factual Summary

Claimant's old duty station was in Colorado. He states that he began to apply for Government vacancies outside Colorado in September 2000. As he read personnel notifications for which he believed he was qualified, he and his wife made the decision to place his home for sale. Since the housing market had slowed at that time, he did not want to maintain two households if he received a position at a new duty station.

Claimant states further that he placed his home on the market for sale on April 2, 2001, and that he entered into a contract of sale with purchasers on May 15, 2001. However, the agency has supplied a copy of the contract of sale with the notation "5-8-01" next to the signatures of claimant, his wife, and the two purchasers, indicating the contract was signed on May 8, 2001.

The agency states that with regard to claimant's new position at the new duty station, he applied on-line via the online quickhire recruitment system. The record does not indicate the date of the application. On May 10, 2001, the agency sent claimant an e-mail asking if he was still interested in being considered for the position and requesting that claimant respond by May 15, 2001. Claimant also states that on May 10, 2001, he received a "notification" verifying his interest in the position at the new duty station.

The agency states that claimant was selected for his position at the new duty station on May 24, 2001. According to claimant, he received initial notification of his selection on May 25, 2001, from a personnel management specialist. He further states that the relocation specialist in the personnel office was out of the office until June 11, 2001. On June 11, 2001, the agency faxed claimant a letter confirming its offer and claimant's acceptance of the new position. The letter stated that the effective date of the personnel action was July 15, 2001, and that claimant was entitled to relocation expenses. On the same date, claimant signed his employment agreement for the position at the new duty station. The date of settlement of the sale of the residence at the old duty station was May 30, 2001.

Claimant requested reimbursement from the agency of \$21,500, the amount he claims he would be due as a home marketing incentive payment for the sale of his residence at the old duty station had he participated in the agency's homesale program through a relocation services company. He also requested reimbursement of \$4276.58 for costs associated with the sale of his residence at the old duty station. The agency denied reimbursement of both amounts, because he entered into the contract of sale before he applied for the new position.

### Discussion

The Government is authorized by statute to pay the real estate transaction expenses of employees who transfer in the interest of the Government. 5 U.S.C. § 5724a(d) (2000). The statutory authorization is implemented by the Federal Travel Regulation (FTR), which provides that:

[A] written travel authorization shall be issued to the . . . employee before he/she reports to the . . . new official station. The agency should advise the employee . . . not to incur relocation expenses in anticipation of a relocation until he/she has received written notification.

41 CFR 302-1.3(c) (2000). In addition, the agency must determine that the expenses to be reimbursed were incurred incident to the transfer. Connie F. Green, GSBCA 15301-RELO, 01-1 BCA ¶ 31,175.

In the instant case, claimant requests reimbursement of costs incurred in the sale of his residence at the old duty station. He asserts that the agency never warned him that he would only be entitled to costs incurred after he received official notification of his new position. Claimant also requests reimbursement of relocation service fees to which he claims he would have been entitled had the agency advised him of the option of using a relocation service to sell his house.

In Green, we held that where a house is listed, and a contract for sale entered into, before an offer of employment is made, reimbursement of real estate expenses are not authorized unless the claimant can prove that the agency had administrative intent, before the expenses were incurred, to transfer the employee.

Claimant is not entitled to reimbursement for the costs he claims. He listed his house at his old duty station for sale in April 2001. He entered into a contract of sale on May 8, 2001. It was not until two days later that the agency inquired via e-mail as to whether

claimant was interested in the position. Claimant was selected for the new position on May 24, 2001, and first notified on May 25, 2001. Under the circumstances, we cannot find that the agency had administrative intent to transfer him at the time he entered into a contract of sale.

We note additionally that even if Mr. Davis were eligible for reimbursement of expenses he incurred in selling his home in Colorado, he could not receive both reimbursement of those expenses and a home marketing incentive payment. The latter payment is available only to an employee who sells his home to a relocation services company under contract to his agency, and an employee who sells his home to such a company may not be reimbursed for sales expenses. 41 CFR 302-12.104, -14.1.

#### Decision

The claim is denied.

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ALLAN H. GOODMAN  
Board Judge