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

June 6, 2001

GSBCA 15415-RELO

In the Matter of REED T. ROLLO, JR.

Reed T. Rollo, Jr., Riverdale, MD, Claimant.

Jeanne DiGange, Authorized Certifying Officer, Office of the Chief Financial Officer, National Finance Center, Department of Agriculture, New Orleans, LA, appearing for the Department of Agriculture.

WILLIAMS, Board Judge.

In conjunction with his permanent change of station, claimant, Reed T. Rollo, Jr., a veterinary medical officer with the United States Department of Agriculture (USDA), seeks reimbursement of real estate expenses he incurred in purchasing land on which he is constructing a home. The agency has requested our opinion on whether it may pay the claim since claimant did not use the lot as his actual residence at the time of his transfer but intended to construct his residence there in the future. The agency may pay the claim since an employee who chooses to construct a home at the new duty station may be reimbursed to the same extent as an employee who purchases an existing home.

Background

On May 7, 1997, claimant was transferred from St. Thomas, Virgin Islands, to Riverdale, Maryland, and was authorized real estate expenses for the sale and purchase of a residence. After being granted a one-year extension to the original two-year period for claiming relocation expenses, on April 7, 2000, Mr. Rollo completed the purchase of a lot on which he intended to build a house, and he anticipates completing construction by the summer of 2001. Mr. Rollo was not able to sell his home in the Virgin Islands within the three-year period for reimbursement of expenses.

Mr. Rollo requested reimbursement of expenses he incurred in connection with the purchase of the land only. The agency initially denied the claim because at the time he closed on the land, Mr. Rollo had not established a residence on the lot he purchased.

Discussion

Statute authorizes federal agencies to pay expenses which transferred employees incur in purchasing a home at their new duty stations. 5 U.S.C. § 5724a(d) (Supp. III 1997). In implementing the statute, however, the Federal Travel Regulation (FTR) details which particular expenses are reimbursable. It provides that a transferred employee who chooses to construct a new home at his new duty station may recover real estate transaction expenses to the same extent as he would if he had bought an existing home. Specifically, FTR 302-6.2(d)(1) states:

> Reimbursable items. The following expenses are reimbursable in connection with the sale and/or purchase of a residence, provided they are customarily paid . . . by the purchaser of a residence at the new official station, to the extent they do not exceed specifically stated . . . amounts customarily paid in the locality of the residence.
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> (x) Expenses in connection with construction of a residence, which are comparable to expenses that are reimbursable in connection with the purchase of an existing residence.

41 CFR 302-6.2(d)(1)(x) (1997).

This Board, following the decisions of the Comptroller General, has construed these provisions of the FTR to state that an employee who chooses to construct a home at the new duty station will be permitted to recover real estate expenses to the same extent as an employee who purchases an existing home. Where each stage of the building process involves a number of expenses which would appropriately be reimbursed in connection with the purchase of an existing residence, the employee may be reimbursed only once for each type of expense that is allowable under the regulations. Steven F. Bushey, GSBCA 15289-RELO, 01-1 BCA ¶ 31,291; Michael B. Holtzclaw, GSBCA 14044-RELO, 97-2 BCA ¶ 29,287; Michael J. Spann, GSBCA 13685-RELO, 97-2 BCA ¶ 29,019; David R. Petak, B-247860 (July 23, 1992); James A. Schampers, 69 Comp. Gen. 573 (1990); Michael D. May, B-223112 (Nov. 25, 1986).

As this Board recognized in Steven F. Bushey, 01-1 BCA at 154,492, if an employee does not purchase a completed residence, he may be reimbursed for otherwise allowable expenses incurred in connection with the purchase of the lot and the renovation of his residence. In Bushey, we allowed reimbursement of transaction costs associated with the purchase of the lot as well as nonduplicative costs associated with completely remodeling an old ant-infested structure which stood on the lot. Similarly, in Holtzclaw, 97-2 BCA at 145,714, we allowed reimbursement of costs associated with the purchase of land where the employee had not completed construction of his residence at the time of closing and reimbursement for the construction costs was not being sought.

Decision

Mr. Rollo is entitled to reimbursement of allowable expenses up to the regulatory maximum of five percent of the purchase price of the land. 41 CFR 302-6.2(g)(2). The claim is granted.

MARY ELLEN COSTER WILLIAMS
Board Judge