

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

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May 17, 2001

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GSBCA 15521-RELO

In the Matter of MITCHELL J. SCHUTZ

Mitchell J. Schutz, Layton, UT, Claimant.

Priscilla Garrett, Acting Chief, Civilian Personnel, Headquarters San Antonio Air Logistics Center, Department of the Air Force, Kelly Air Force Base, TX, appearing for Department of the Air Force.

**DeGRAFF**, Board Judge.

In late 1999, the Department of Defense (DoD) hired Mitchell J. Schutz to work at Kelly Air Force Base, Texas. At that time, Mr. Schutz signed an agreement in which he committed to transfer to Hill Air Force Base, Utah, at some unspecified future date. While he was employed at Kelly Air Force Base, Mr. Schutz commuted to work from a motel near the base. Mr. Schutz owned a house in Wichita Falls, Texas and he returned there on the weekends.

DoD issued travel orders to Mr. Schutz on April 7, 2000, transferring him to Utah. Those orders stated that DoD would reimburse Mr. Schutz for the real estate expenses he incurred in connection with his transfer. Mr. Schutz sold his house in Wichita Falls when he moved to Utah, and he asked DoD to reimburse him for his sales expenses. DoD denied Mr. Schutz's request for reimbursement because Mr. Schutz had not been regularly commuting to Kelly Air Force Base from his house in Wichita Falls, and because Mr. Schutz was a new appointee when he was hired at Kelly Air Force Base. Mr. Schutz asks us to review DoD's decision.

DoD could not have reimbursed Mr. Schutz if he had sold his Wichita Falls house when he was hired at Kelly Air Force Base, because agencies are not authorized to reimburse newly hired employees for their residence sales expenses. 5 U.S.C. § 5723 (1994 & Supp. V 1999). DoD could have reimbursed Mr. Schutz for his residence sales expenses when he transferred to Utah, so long as the Wichita Falls house was the residence from which he regularly commuted to work while he worked at Kelly Air Force Base. 5 U.S.C. § 5724a(d)(1) (Supp. V 1999); 41 CFR 302-1.4(k), 302-6.1 (2000); Joint Travel Regulations C14000-A.4 (Apr. 1, 2000). The Board has consistently decided that an employee who

commutes to work from living quarters close to his duty station on a daily basis and returns only on weekends and holidays to a residence where, for example, his family lives, does not regularly commute from that residence. David Morrell, GSBCA 15229-RELO, 00-1 BCA ¶ 30,899; Ezzat Asaad, M.D., GSBCA 14484-RELO, 98-1 BCA ¶ 29,667; David M. Whetsell, GSBCA 14089-RELO, 98-1 BCA ¶ 29,610; Malcolm L. Jowers, GSBCA 13727-RELO, 97-1 BCA ¶ 28,800. Because Mr. Schutz did not regularly commute to work from the house in Wichita Falls, he is not eligible to be reimbursed for the expenses he incurred in selling that house.

We deny the claim.

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MARTHA H. DeGRAFF  
Board Judge