

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

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June 28, 2002

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GSBCA 15866-RELO

In the Matter of JAMES A. WRIGHT

James A. Wright, Middleburg, FL, Claimant.

G. J. Murphy, Disbursing Officer, Personnel Support Activity, Jacksonville Naval Air Station, Jacksonville, FL, appearing for Department of the Navy.

**DANIELS**, Board Judge (Chairman).

The Department of the Navy correctly refused to reimburse James A. Wright for expenses he incurred in selling his residence at his old duty station after the agency transferred him elsewhere. The sale occurred too long after the transfer for reimbursement to be permissible under applicable regulations.

The Navy transferred Mr. Wright from a facility in California to one in Florida. Mr. Wright reported to the Florida facility on April 15, 1995. Benefits the Government may grant him as a result of the move are governed by the provisions of the Federal Travel Regulation (FTR) and the Department of Defense's Joint Travel Regulations (JTR) which were in effect on that date. 41 CFR 302-1.3(d) (1994); JTR C1050-F (May 1, 1994); see also 41 CFR 302-6.1(e)(2)(iv); JTR C14000-2 (Jan. 1, 1995).

Under those regulations, an employee would usually be reimbursed for the expenses he might incur in selling his residence at his old duty station only if he sold the house within two years after he reported for duty at his new station. 41 CFR 302-6.1(e)(1); JTR C14000-2. This time limitation could be extended from two years to three if the employee asked his agency in writing for an extension and the agency granted the extension. The agency could grant the extension if it determined that (a) extenuating circumstances prevented the employee from completing the sale within the two-year period and (b) the sale was reasonably related to the transfer of official station. 41 CFR 302-6.1(e)(2); JTR C14000-2.<sup>1</sup>

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<sup>1</sup>These rules remain in effect today, with two exceptions. 66 Fed. Reg. 58,194, 58,197,  
(continued...)

After leaving California, Mr. Wright tried to sell his former home there but was unable to dispose of the property as quickly as he had hoped. He apparently understood the rules stated in the preceding paragraph, for in March 1997, he asked for an extension of time in which he might sell the house and have the Government pay for the costs of sale. He justified this request on the ground that "[t]he market has been very bad due to all the flooding, crime in our old neighborhood, etc." The Navy found this to be a compelling reason for the failure to sell the house and extended the time limit by a year. With this extension, if Mr. Wright had sold the house by April 15, 1998, his transaction costs would have been reimbursed.

Mr. Wright sold his California residence in January 2001.

The sale occurred much too late for reimbursement to be permissible. The FTR and JTR impose a firm deadline by which a transferred employee's residence sale must occur in order to qualify for Government reimbursement of sales expenses. As we have stated many times, that deadline may not be breached, no matter the reason for the employee's having failed to sell his former home prior to the deadline. E.g., Kristen A. Campbell, GSBCA 15442-RELO, 01-1 BCA ¶ 31,406 (ownership of property not clear until divorce finalized); Sara Handberry, GSBCA 15315-RELO, 00-2 BCA ¶ 31,055 (closing delayed because inclement weather prevented necessary repairs); Robert R. Goulka, GSBCA 15145-RELO, 00-1 BCA ¶ 30,813 (employee on active duty overseas as a member of the Army Reserve); Nannette O. Locke, GSBCA 15144-RELO, 00-1 BCA ¶ 30,706 (1999) (uncertainty over continued existence of employee's office); Marlene L. Barger, GSBCA 15036-RELO, 99-2 BCA ¶ 30,423 (sale effected through lease/purchase contract). Thus, even if Mr. Wright had

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58,233-34, 58,237 (Nov. 20, 2001) (to be codified at 41 CFR 302-2.3, -11.21 to -11.23, -11.420 to -11.421 (2002)); JTR C14000-B (Feb. 1, 2002). First, an agency may now extend the two-year limitation for up to two additional years, rather than one. 41 CFR 302-11.22, -11.420 (2002); JTR C14000-B (Feb. 1, 2002). Second, under the FTR (but not the JTR) the acceptable basis for an extension has been altered. According to one current FTR provision, the extension may be granted "for reason [sic] beyond [the employee's] control and acceptable to the agency." 41 CFR 302-11.22 (2002). According to another provision, the extension may be granted if the agency determines "that the: (a) Employee has extenuating circumstances which have prevented him/her from completing his/her sale . . . transaction[] in the initial authorized time frame of two years; and (b) Employee's residence transactions are reasonably related to his/her transfer of official station." Id. 302-11.421. As we have previously pointed out, an extenuating circumstance may be within the control of an employee, but still good cause for granting an extension. Stephanie P. Riddle, GSBCA 15027-RELO, 99-2 BCA ¶ 30,533. In that circumstance, the agency could not grant an extension under the first FTR provision but could do so under the second. The current FTR provisions therefore appear to be in conflict with each other. Further, because the JTR contains the standard of the second FTR provision but does not mention the standard of the first FTR provision, the JTR is not faithful to the FTR, as it must be. These problems have no impact on this case, but we urge the regulation writers to remedy them so as to avoid confusion in situations to which the provisions in question do apply.

an excellent reason for not having sold his house until nearly six years after his transfer, the Navy could not lawfully reimburse him for the expenses he incurred in making the sale.

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STEPHEN M. DANIELS  
Board Judge