

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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February 27, 2006

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GSBCA 16773-RELO

In the Matter of RICHARD A. WIGLEY

Richard A. Wigley, Bassett, VA, Claimant.

Tommy R. Hill, Chief, Real Estate Division, United States Army Corps of Engineers, Savannah, GA, appearing for Department of the Army.

**BORWICK**, Board Judge.

Claimant Mr. Richard A. Wigley, was transferred by the United States Army Corps of Engineers, agency. Incident to that transfer, claimant sold a house that was not within regular commuting distance of his old permanent duty station. The agency denied claimant reimbursement of the real estate transaction expenses incurred in the sale of the house because reimbursement would violate statute, the Federal Travel Regulation (FTR), and the Joint Travel Regulations (JTR). Because the agency correctly applied statute and regulation, we deny the claim.

## Background

On or about July 16, 2001, the agency appointed claimant as a park ranger to the United States Army Engineer District, Portland, Oregon, Operations Division, Rogue River Basin Project. The agency appointed claimant on a seasonal basis, subject to release on nonpay status and recall to duty to meet workload requirements as a condition of employment. Claimant's duty station was listed on his Standard Form 50-B as "Trail/Jackson/Oregon."

Claimant maintained a permanent residence in New Castle, Pennsylvania. Claimant explains that when he was assigned to the Portland District, claimant decided not to sell his house. Instead, claimant decided to return every winter to Pennsylvania, during his “lay-off period.” Claimant states that during his approximately two and one-half seasons at the Portland District, he rented a motorhome. On or about July 27, 2003, the agency appointed claimant to full-time employment as a park ranger with the Wilmington, North Carolina, Operations Division, at the Philpott Project, Bassett, Virginia. Claimant’s new duty station, as stated on claimant’s Standard Form 50-B, was “Bassett/Henry/Virginia.”

Pursuant to the transfer, the agency authorized claimant relocation benefits including travel between official stations, travel for a house hunting trip, temporary quarters subsistence expense reimbursement, temporary storage of household goods, and real estate expenses. Claimant reported for duty at the Wilmington District on July 28, 2003.

Claimant states that after several months at his new post at the Wilmington District, claimant decided to sell his house in Pennsylvania. On April 7, 2005, claimant sold his house in Pennsylvania and incurred \$9199.51 of real estate expenses, for which he sought reimbursement from the agency.

The agency denied claimant reimbursement because claimant’s house in Pennsylvania was not the residence from which he commuted daily while stationed at the agency’s Portland, Oregon, District. From that denial, claimant submitted a claim to the Board.

### Discussion

Statute provides that the agency may pay employees transferred in the interest of the Government expenses of the sale of a residence “at the old official station.” 5 U.S.C. §5724a(d)(1) (2000). The FTR implements the statute by providing for the sale of a residence “at your old official duty station.” 41 CFR 302-11.1(a) (2004). For purely domestic transferees, as in this case, the residence must be one which the employee occupies when first officially notified of his or her transfer. 41 CFR 302-11. The residence must be the one residence from which the employee regularly commuted from work on a day-to-day basis and which was the employee’s residence when officially notified of the transfer. 41 CFR 302-11.100. The JTR, which implement and supplement the FTR, are substantively the same. JTR C14000-A.4.,-A.6. There are no special exceptions for seasonal or temporary agency employees. *See Paul Henderson*, GSBCA 15480-RELO, 01-2 BCA ¶ 31,501. An employee who, incident to a transfer, sells a house not meeting the strict requirements for an eligible residence as set forth in the FTR and JTR, is simply not entitled to real estate

transaction benefits for the sale of that house. *Robert W. Ratliff*, GSBCA 16755-RELO (Jan. 31, 2006). Claimant's house in Pennsylvania was not "at the old official station" as required by statute and as implemented by regulation. The Board denies the claim.

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ANTHONY S. BORWICK  
Board Judge