

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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August 23, 2006

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GSBCA 16906-RELO

In the Matter of REBECCA J. ALLEE

Rebecca J. Allee, Slidell, LA, Claimant.

Wanda M. Gonsalves, Office of Finance and Administration, National Oceanic and Atmospheric Administration, Norfolk, VA, appearing for Department of Commerce.

**BORWICK**, Board Judge.

Claimant, Dr. Rebecca J. Allee, an employee of the Department of Commerce (agency), seeks reimbursement of real estate transaction expenses for herself and her same-sex partner as if they were members of an immediate family. The agency granted claimant reimbursement of a pro-rata share--fifty percent--of the allowable transaction expenses, refusing to recognize claimant and her partner as members of an immediate family. We sustain the decision of the agency, which is in accord with statute and the Federal Travel Regulation (FTR).

## Background

On November 15, 2005, the agency authorized claimant's transfer in the interest of the Government from Bryans Road, Maryland, to the Stennis Space Center in Mississippi. The agency authorized claimant reimbursement of real estate transaction expenses. Claimant, along with her partner, sold her house in Bryans Road, Maryland, and purchased a house in Slidell, Louisiana. According to the settlement sheets and the sale and purchase contracts, the houses sold and bought were owned jointly by claimant and her partner. Claimant and her partner incurred real estate expenses resulting from those transactions. Claimant submitted a voucher to the agency for \$36,838, which she claimed was the total

amount of real estate expenses due her from the sale of her house at her old duty station and the purchase of her house at her new duty station.

The agency determined that claimant and her partner incurred allowable reimbursable real estate expenses of \$31,766.25 in the sale of their house at the old duty station and reimbursed claimant half, or \$15,833.12. Similarly, the agency determined that claimant and her partner incurred allowable reimbursable real estate expenses of \$1178.99 for the purchase of their house at the new duty station and reimbursed claimant half, or \$589.49.

Claimant contests the agency's granting her reimbursement of only a pro-rata share, maintaining that she and her partner should be considered as an immediate family. Claimant points to the couple's legal adoption of a daughter on September 20, 2005, as stated in the judgment of adoption of that date of the Circuit Court for Charles County, Maryland.

### Discussion

Claimant's entitlement to reimbursement of real estate transaction expenses is governed by statute and regulation. The applicable statute provides that title to a residence must be in the name of the employee alone or in the joint names of the employee and a member of his or her immediate family. 5 U.S.C. § 5724a(b)(6) (2000). The FTR provides that title to a residence must be held by the employee or jointly with members of the employee's immediate family. If title is held jointly with a person not a member of the immediate family, the employee's reimbursement will be on a pro-rata basis to the extent of the employee's actual title interest. 41 CFR 302-11.101, -11.103 (2005). The FTR defines "immediate family" to include a spouse, unmarried children under twenty-one years of age of the employee or spouse or adult children who are physically or mentally unable to care for themselves, dependent parents, and dependent brothers and sisters. 41 CFR 300-3.1.

The term "spouse" is not defined in the FTR, but the common definition of spouse is "one's husband or wife by lawful marriage." Black's Law Dictionary 1438 (8th ed. 2004). We have held that in the absence of contrary state or federal law, a same-sex relationship does not qualify as a marriage, and does not make each member of that relationship a "spouse" of the other member. *Charles Lister*, GSBCA 14673-RELO, 99-1 BCA ¶ 30,167 (1998). Furthermore, statute requires us in interpreting the FTR to construe the term "spouse" to mean a person of the opposite sex who is a husband or a wife. 1 U.S.C. § 7.

Claimant does not argue that she and her partner were married under the laws of a state. Indeed, Maryland and Louisiana, the couple's previous and present state residences, do not recognize same-sex relationships as marriages. La. Const. art. 12, § 15 (2005); Md. Code Ann., Family Law § 2-201 (2005).

Instead, claimant points to the couple's legal adoption of a child as evidence that the couple constitutes an "immediate family." The adoption made claimant a parent, not a spouse, as required by the FTR. The Board denies the claim.

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ANTHONY S. BORWICK  
Board Judge