615

615
QLC:APP
Set Inclosures.
Light fixtures-
Manhattan Range L.S.,O.

August 30, 1923.

SUBJECT:-10th Supt's.let.7/20/23,re.reimbursing keeper's estate,elec.fixtures, Manhattan Range L.S.

Submitted to the Secretary of Commerce with recommendation that the Lighthouse Service be authorized to reimburse the keeper's estate at the present appraised value of the fixtures in question, if legal to do so. The return of the inclosed papers is requested.

G. R. PUTNAM

Commissioner of Lighthouses.

LIGHTHOUSES 615

1923 SEP 10 PM 12 00

10/6/23 Secretary

Wilkie.
Engr. Constr.
Mar. Engr.
Personnel.
Contracts.
Off. Clk.
Dep. Comr.
Comr.

September 8, 1923.

copy to 10th + Encl. rept rec'd.

The Comptroller General
of the United States,
Washington, D. C.

Dear Mr. Comptroller General:

While keeper of the Manhattan Range Light Station, Toledo, Ohio, Mr. Edward Ahart, at his own personal expense, had electric wiring and fixtures installed in the Keeper's dwelling, at an aggregate cost of $120.00.

On June 21st, last, Mr. Ahart died, and it is expected that his family will soon vacate the property. The Bureau of Lighthouses recommends to the Department that the keeper's estate be reimbursed at the present appraised value of the fixtures.

Before making any reimbursement or attempting any settlement in this case, however, the Department would appreciate your decision as to the legality and method of reimbursing the keeper's estate for the improvements referred to.

While the improvements were made without any contract or agreement with the Department, the Superintendent of that station, in a recommendation to the Department, states that, "Installation of electricity in this dwelling affected a permanent and desirable improvement which would probably have been made in a short time by the Lighthouse Service, and in view of the circumstances it is considered that it would be an act of justice, if Mrs. Ahart, the widow, could be re-

imbursed for this expense."

It seems to be well established by numerous authorities that electric fixtures, such as chandeliers and other appurtenances, are not part of the realty, and that they may be removed by the tenant when his possession is terminated (19 Cyc. of Law and Procedure, page 1060, note 21; New York Life Insurance Co. vs. Allison, 107 Fed. 179, 183; Ewell on Fixtures, page 449).

If Mrs. Ahart exercised her legal rights and removed the fixtures from the lighthouse dwelling, it would necessitate the purchase of other fixtures to replace the ones removed, and the Department believes that it would be much more expensive to replace the fixtures than to settle with the widow at their present appraised value.

The Department has in mind section 3709 of the Revised Statutes, but it does not consider that this statute would be violated by a reimbursement in this case. The purpose of this law was to insure to the Government the advantage of competition. But as was said by the Attorney General, "it contemplates only those purchases and contracts where competition as to the article needed is possible." (17 Op. At. Gen. 87.) In this particular instance there is, of course, no possibility of competition if the Department is to purchase the electric fixtures installed by the deceased keeper in the lighthouse dwelling, for they could only be purchased from the widow and no one else. The Department could, of course, permit the widow to remove the fixtures

installed by her husband, and purchase other fixtures after advertising and invitation of bids, but as pointed out above this procedure would be much more expensive to the Government.

Very truly yours,

S. B. DAVIS

Acting Secretary of Commerce.

Encls.

5033-1-3

Sept. 11-1923

aoo

Bureau of Lighthouses, Wash., Copy to 10 Supt.