



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

April 9, 2013

CBCA 3078-RELO

In the Matter of SHAWN B. ANDERSON

Shawn B. Anderson, Edgewater, MD, Claimant.

Gerald P. Dale, Financial Management Analyst, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

VERGILIO, Board Judge.

The agency reasonably denied the request for an extension of temporary quarters subsistence expenses (TQSE) made by claimant, who had purchased a home under construction with a completion date post-dating the original TQSE period. The agency did not find as compelling reasons the claimant's need to have entered into a purchase contract to enroll his son in school, or the delay in the start date at the new duty station.

The claimant, Shawn B. Anderson, a civilian employee of the Department of the Air Force, relocated (with his spouse and two dependent children) within the continental United States. His reporting date was in August 2012, delayed from August 12 to 27, as the agency awaited his drug test results. His permanent change of station orders authorized him to receive, among various other items, round trip travel for house hunting; sixty days of TQSE, actual expenses (AE); real estate expenses; and relocation expenses.

The claimant took two pre-move house-hunting trips (the agency provided reimbursement for one ten-day trip; the claimant financed one trip), making unsuccessful offers on two or three homes. Once at the new duty station, the claimant selected a house being constructed, for which the contractor would not guarantee a completion date prior to November 28, 2012, which was after the expiration of his approved TQSE period; approved TQSE ended on October 17. The claimant entered into a contract to purchase the home.

Shortly before the expiration of the sixty-day TQSE period, the claimant sought a thirty-four day extension. As justification, citing the applicable Joint Travel Regulations (JTR) provisions, C5364-B2.3 and -B2.5, the claimant asserted his inability to locate permanent housing adequate for family needs because of housing conditions at the new duty station and the necessity to finalize a housing contract in order to register a son for school. The claimant indicated that he anticipated that the house would be completed within the extended period. Although his local office supported the requested extension, the appropriate official at the agency denied the request, concluding that the claimant had purchased the home under construction with the understanding that it would not be completed during his TQSE period. The denial also noted that the high cost of housing and unjustified personal preferences may not be used to support an extension request.

The agency has directly addressed the factors raised by the claimant, concluding that the failed bids on houses and the delayed start date have no bearing on the request for an extension, as all occurred prior to the commencement of his permanent change of station travel. The agency contends that an extension of TQSE would not change the outcome of his son's enrollment or alter the claimant's lodging.

An agency may authorize an extension of TQSE when the authorizing official determines that there are compelling reasons (due to circumstances beyond the employee's control) for continued occupancy of temporary lodging. JTR C5364-B; Federal Travel Regulation (FTR), 41 CFR 302-6.105 (2012). While the claimant may have felt compelled, as he indicates, to purchase the first available home to permit school enrollment, the record does not establish the impropriety of the agency's denial of the requested extension. The record does not demonstrate the housing conditions at the new duty station or that other than personal preferences motivated the purchase of the home being constructed. While the delay in his start date at the new duty station shifted his arrival to the start of the new school year, the claimant purchased the house under construction knowing that there was no guarantee that it would be completed within his TQSE period.

The agency has reasonably exercised its discretion in denying the extension. The Board denies the claim.

JOSEPH A. VERGILIO
Board Judge