September 15, 2014

CBCA 3957-RELO

In the Matter of JOSHUA W. HUGHES

Joshua W. Hughes, North Bonneville, WA, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

WALTERS, Board Judge.

Claimant, Joshua W. Hughes, in connection with a permanent change of status (PCS) as an employee of the Army Corps of Engineers, was afforded a withholding tax allowance (WTA) to approximately cover the income tax created by reason of PCS relocation benefits. The agency subsequently asserted that there had been an overpayment of WTA, since claimant's marginal tax rate was only 15% and not the 25% tax rate used to compute the WTA. As a result, and in reliance on regulation, 41 CFR 302-17.8, it posits that claimant is indebted to the agency for the \$5004.49 overpayment. Claimant has asked the Board to review the agency's determination.

In the present case, the parties are in agreement that claimant is a bargaining unit employee under a collective bargaining agreement (CBA) and is represented by a union. Claimant advises that he attempted to pursue a grievance and sought unsuccessfully to determine whether the CBA would cover PCS travel and the instant dispute concerning alleged WTA overpayment. In response to the Board's inquiry, the agency asserts that claimant is represented by the United Power Trades Organization (UPTO) and states that the UPTO CBA "does not provide an exception for travel and relocation to the grievance procedure for the processing and disposition of grievances." Although claimant asserts that he is a bargaining unit employee under another union's CBA, that of the National Federation

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of Federal Employees (NFFE), the NFFE CBA's grievance procedure does not carve out an exception for travel and relocation claim resolution by this Board either. Under such circumstances, we have held that an employee's sole avenue of relief is under the applicable CBA and that the Board "lacks authority to settle the claim." *James R. Linder*, CBCA 2559-RELO, 12-1 BCA ¶ 34,973, at 171,915 (citing *Margaret M. Lally*, CBCA 791-TRAV, 07-2 BCA ¶ 33,713; and *Carla Dee Gallegos*, GSBCA 14609-RELO, 99-1 BCA ¶ 30,300); *see also Louis V. Cosse, Jr.*, CBCA 3404-TRAV, 13 BCA ¶ 35,385; *compare Todd Chandler*, CBCA 3593-TRAV, 14-1 BCA ¶ 35,536 (CBA contained express exception providing for board review of agency denials of claims for travel expenses).

Accordingly, the matter is dismissed for lack of authority.

_____/s/__ RICHARD C. WALTERS Board Judge