



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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April 25, 2019

CBCA 6377-RELO

In the Matter of JOSEPH VALENTIN

Joseph Valentin, Orlando, FL, Claimant.

David C. Hoffman, Deputy General Counsel, Defense Contract Audit Agency, Department of Defense, Fort Belvoir, VA, counsel for Department of Defense.

**SOMERS**, Board Judge (Chair).

Claimant, Joseph Valentin, seeks reimbursement for real estate expenses incurred for the purchase of his residence in connection with his permanent change of station (PCS) from Israel to Orlando, Florida. For the reasons explained below, the claim is denied.

Factual Background

Mr. Valentin worked at a sub-office of the Defense Contract Audit Agency (DCAA) in Israel. In June 2018, Mr. Valentin sought to be transferred to a different assignment in Florida for personal reasons.

DCAA had offices located in Tampa, Orlando, and Melbourne, Florida. DCAA management worked to identify senior auditor positions in all three locations. Mr. Valentin met with managers in each of those cities. At that time, Mr. Valentin did not know whether he would move to one of those locations, or return to Israel to complete his one-year minimum service requirement.

On July 3, 2018, emails between the managers described Mr. Valentin's options as (1) continuing to work in the investigative support division in the same type of assignment he had in Israel, but in Tampa, or (2) taking one of several positions at different locations in

Orlando. Ultimately, on July 12, 2018, Mr. Valentin selected one of the DCAA assignments in Orlando, Florida. The agency issued official orders transferring Mr. Valentin to Orlando on July 24, 2018.

However, on July 3, 2018, prior to receiving his orders, Mr. Valentin entered into a contract to purchase a residence in Orlando. On September 12, 2018, Mr. Valentin submitted a claim for reimbursement of certain costs incurred in purchasing his home in the amount of \$13,284.06. On December 20, 2018, DCAA issued a legal opinion recommending denying the claim. This appeal follows.

### Discussion

When an employee is transferred from one permanent duty station to another, the transfer usually benefits both the Government and the employee. For the purposes of determining whether the employee may receive relocation benefits, the transfer must be characterized as either “in the interest of the Government” or “primarily for the convenience or benefit of an employee.” If the primary beneficiary is the Government, the employee is entitled to receive certain benefits. For example, the Government is required to reimburse federal employees for real estate expenses incurred that are incident to a transfer of station made in the Government’s interest.<sup>1</sup> 5 U.S.C. § 5724a(d)(1) (2012); *Robert M. Baum*, CBCA 5600-Relo, 17-1 BCA ¶ 36,637, at 178,435 (2018).

However, when an employee incurs real estate expenses prior to receiving formal notification of a pending transfer, the employee will be eligible for reimbursement only if the agency had manifested a clear “administrative intent” to transfer the employee. *See* 41 CFR 302-11.200; *Tyler D. Warner*, CBCA 5215-RELO, 16-1 BCA ¶ 36,364, at 177,259. Residence transaction expenses can be reimbursed only if, “despite the lack of formal written notification of the transfer, a definite selection for the position has been made” before the purchase agreement is executed “and all parties concerned had good reason to expect the transfer would be approved and effectuated.” *Jorge L. Gonzalez*, CBCA 984-RELO, 08-2 BCA ¶ 34,004, at 168,162.

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<sup>1</sup> Neither party addressed the issue of whether the transfer from one permanent duty station to another was in the best interest of the Government or of the employee in this case. However, the claim before us is limited to reimbursement of real estate expenses. Because we find that Mr. Valentin would not be entitled real estate expenses due to the timing of his purchase, we need not address the issue of whether his transfer was in the best interest of the government or the employee here.

Here, the agency presented several alternative possibilities of assignments to Mr. Valentin. At the time that Mr. Valentin entered into the purchase agreement, he had made no final decision as to whether he wished to transfer to a position in Tampa or Orlando, or, alternatively, return to Israel to complete his original assignment. It was not until July 10<sup>th</sup>, after Mr. Valentin had purchased a home in Orlando and expressed a desire to work in an Orlando office, that agency managers began to narrow the focus to Orlando offices and located the ultimate new duty station. The agency did not officially notify Mr. Valentin of his new assignment until July 12, 2018. Because Mr. Valentin entered into the real estate contract prior to receiving formal notification of a pending transfer, and in the absence of a clear manifestation by agency officials that it intended to transfer him to Orlando, he is not entitled to be reimbursed for his expenses.

Decision

For the foregoing reasons, we must deny Mr. Valentin's claim.

*Jeri Kaylene Somers*  
JERI KAYLENE SOMERS  
Board Judge