



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 4, 2019

CBCA 6446-RELO

In the Matter of GUSTAVO A. BISBAL

Gustavo A. Bisbal, Oregon City, OR, Claimant.

Anna H. Roe, Office of the Solicitor, Department of the Interior, Denver, CO, appearing for Department of the Interior.

SULLIVAN, Board Judge.

Gustavo Bisbal, claimant, filed a claim with the Board seeking review of the failure of the Department of the Interior (agency) to comply with the terms of a settlement agreement. Mr. Bisbal alleged that the agency's refusal to pay his federal and state taxes on relocation costs violated the terms of the agreement. The agency moved to dismiss the claim because the Board lacks authority to review allegations of breach of the settlement agreement. Because Mr. Bisbal was transferred voluntarily and not in the interest of the Government, the federal statute mandating the payment of tax liabilities does not apply and the Board lacks authority to resolve the dispute. Accordingly, we dismiss the claim.

Background

In May 2018, Mr. Bisbal and the agency entered into a settlement agreement to resolve an equal employment opportunity dispute. Pursuant to that agreement, Mr. Bisbal accepted a voluntary reassignment and his permanent duty station was changed from Corvallis, Oregon, to Portland, Oregon. Mr. Bisbal had already moved at the time the settlement agreement was entered into, but the agency agreed to reimburse Mr. Bisbal up to \$45,000 for relocation expenses that he incurred. The agreement further provided that Mr. Bisbal would submit any allegations that the agency was not in compliance with the agreement to the agency's Office of Civil Rights.

The agency reimbursed Mr. Bisbal his expenses and provided him with a Form 1099 for his 2018 tax returns. In the process of preparing those returns, Mr. Bisbal was advised that he would owe taxes for the relocation costs that the agency reimbursed him. Mr. Bisbal asked the agency to reimburse him for the taxes. When the agency refused, Mr. Bisbal filed his claim with the Board and filed a complaint with the agency's Office of Civil Rights.

Discussion

The Administrator of General Services has the authority to “settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.” 31 U.S.C. § 3702(a)(3) (2012). The Administrator has delegated this authority to the Civilian Board of Contract Appeals. *Keith E. Mayo*, CBCA 2578-RELO, 12-1 BCA ¶ 35,008, at 172,042; 48 CFR 6104.401(a) (2018). Those claims are “grounded in subchapter II of chapter 57 of title 5, United States Code, and the regulations issued by the Administrator of General Services to implement the statute.” *Teresa M. Erickson*, GSBICA 15210-RELO, 00-1 BCA ¶ 30,900, at 152,473 (parenthetical omitted). These statutory authorities include the obligation to reimburse federal employees the taxes for relocation costs incurred for relocation when the employee's transfer is “in the interests of the Government.” 5 U.S.C. §§ 5724a, 5724b.

Mr. Bisbal's claim does not arise under these authorities. Mr. Bisbal accepted a voluntary reassignment, not a transfer in the interest of the Government. The agency reimbursed Mr. Bisbal his relocation expenses pursuant to a settlement agreement, not pursuant to the authorities set forth in subchapter II of chapter 57 of title 5, United States Code. Finally, the settlement agreement provides that disputes arising from the settlement agreement will be referred to the agency's Office of Civil Rights.

Decision

The claim is dismissed.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge