



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 28, 2022

CBCA 7255-RELO

In the Matter of NICHOLAS C.

Nicholas C., Claimant.

Mark D. Dellinger, Director, Travel Management and Policy Division, Office of Logistics Operations, Department of State, Washington, DC, appearing for Department of State.

KULLBERG, Board Judge.

Claimant, Nicholas C., seeks review of the assessment of a charge in the amount of \$3494.58 by his employer, the Department of State (DOS), for the cost of shipping and storing that portion of his household effects (HHE) that exceeded a net weight of 18,000 pounds. DOS contends that it cannot waive the weight limit for HHE when an employee transfers to a new permanent duty station (PDS), but claimant argues that he had no opportunity to reduce the weight of his HHE in government storage before his transfer. For the reasons set forth below, the claim is denied.

Background

On March 29, 2021, DOS issued a permanent change of station (PCS) travel authorization (TA) to transfer claimant from his former overseas PDS to his new overseas PDS. Claimant already had a portion of his HHE, which weighed 12,730 pounds, in storage at government expense in the United States.

Claimant's TA authorized a shipment allowance of 7200 pounds of his HHE from his previous duty station. Claimant's HHE shipment from his former PDS weighed 7187 pounds, and he placed another 1047 pounds of HHE in government storage at the European

Logistics Support Office (ELSO). The total weight of claimant's HHE to be shipped, 7187 pounds, plus that in storage (12,730 pounds in the United States and 1047 pounds at ELSO) totaled 20,964 pounds. DOS determined that the weight of claimant's HHE exceeded the 18,000 pound limit for shipping HHE at government expense by 2964 pounds and charged claimant \$3494.68.

Claimant sought relief from payment of the cost of his overweight HHE, but DOS denied his request. In his request for review by the Board, claimant contended that he was denied the opportunity to reduce the weight of his HHE in storage at government expense in the United States by placing it in storage at personal expense. DOS contends that claimant had other alternatives to reduce the weight of his HHE before he received his TA, and it lacks the authority to increase the 18,000 pound weight allowance for claimant's HHE.

Discussion

The issue in this matter is whether DOS properly assessed its charge for the excess weight of claimant's HHE shipment. Statute provides that an employee transferring in the interest of the Government is entitled to be paid "the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking his household goods and personal effects not in excess of 18,000 pounds net weight." 5 U.S.C. § 5724(a)(2) (2018). The DOS Foreign Affairs Manual (FAM) states that "[t]he combined shipment and storage of effects allowance has been established at the statutory limit of 8,156 kilograms or 18,000 pounds, net weight, for each employee, regardless of family status." 14 FAM 613.1.a(1). Additionally, the employee has the "personal and sole responsibility to pay the excess costs from personal funds of any excess charges incurred for overweight . . . shipments." *Id.* 612.3.b(2).

Board precedent has established that an employee is responsible for the cost of shipping or storing that portion of his or her HHE in excess of the statutory limit of 18,000 pounds, and this Board does not have the authority to grant relief from that liability. *See Brenda M. Wells*, CBCA 3739-RELO, 14-1 BCA ¶ 35,608; *Robert Weisberg*, CBCA 667-RELO, 07-2 BCA ¶ 33,608. "The statute leaves no room for compromise." *John M. Davis*, CBCA 4442-RELO, 15-1 BCA ¶ 36,049. Claimant's HHE shipment exceeded the statutory weight limit of 18,000 pounds, and he is responsible for the costs assessed for the excess over that weight.

Claimant argues that he did not have the opportunity to reduce the weight of his HHE in storage in the United States in order to comply with the 18,000 pound weight limit. The FAM provides the following:

Should the actual weight in continuous storage and the estimated weight of all shipments exceed the 18,000 pound statutory limit (14 FAM 611.6-1), the weight already in continuous storage prior to the new travel authorization is the first weight credited to the 18,000 pounds. The weight already in continuous storage will be calculated against the new travel authorization and the 18,000 pound statutory limit at the point any service is provided under the new travel authorization.

14 FAM 611.7-1.d. Under that FAM provision, once DOS issued claimant's TA, the weight of that portion of his HHE in storage in the United States was applied first for purposes of determining the total weight of his HHE shipment. Claimant's proposed relief, which was to reduce the weight of his HHE in storage after receipt of his TA was, consequently, of no avail. The statute and FAM allow no compromise. The Board lacks authority to grant the relief sought.

Decision

The claim is denied.

H. Chuck Kullberg
H. CHUCK KULLBERG
Board Judge