UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 17, 2023

CBCA 7477-RELO

In the Matter of HEATHER D.

Heather D., Claimant.

Connie J. Rabel, Director, Travel Mission Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense; and Adrian Quesada, Chief, PCS Travel Services, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

GOODMAN, Board Judge.

Claimant is an employee of the Department of Veterans Affairs (VA). She asks this Board to review the denial by the Department of Defense (DOD) and the VA for relocation expenses associated with her transfer from her DOD position in Vicenza, Italy, to her VA position in Daytona Beach, Florida. Because we find that claimant is subject to a collective bargaining agreement that provides the exclusive remedy for resolving the claim, we dismiss this case.

Claimant, as a civilian employee of DOD, transferred from her PDS in Honolulu, Hawaii, to Stuttgart, Germany, in March of 2008. She transferred from Germany to Vicenza, Italy, in 2010. In October of 2017, her overseas tour extension request was denied as she had exceeded the civilian overseas five-year time limit. Claimant's statutory reemployment rights agreement to Honolulu had expired, and she was placed in the Priority Placement Program (PPP). However, she accepted an alternate offer with the VA in Daytona Beach, Florida. The Army issued permanent change of station (PCS) travel orders for the transfer in March 2018, which authorized temporary quarters subsistence expense (TQSE), shipment of household goods (HHG), temporary storage of HHG, shipment of a personally-owned vehicle (POV) to the continental United States, and miscellaneous expense allowance

(MEA). Relocation income tax allowance (RITA) and real estate allowance (REA) were not authorized on the travel orders.

Claimant had an overseas tour transportation agreement, which she fulfilled. She sought reimbursement of MEA in the amount of $1300, RITA in the amounts of $565.60 and $871, and REA in the amount of $3691.50 associated with this transfer. DOD claims that the VA, as the gaining agency, is responsible for MEA and that REA is discretionary because claimant accepted a position outside of the PPP. The VA denied any responsibility for these expenses but did not file an agency response to claimant's request for review at this Board.

In response to the Board's order dated November 30, 2022, claimant submitted a copy of a collective bargaining agreement to which she is subject as an employee of the VA. Article 43 of that agreement specifies a grievance procedure:

> Section 1 – Purpose
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> The purpose of this article is to provide a mutually acceptable method for prompt and equitable settlement of grievances. This is the exclusive procedure for Title 5, Tile 38 Hybrids and Title 38 bargaining unit employees in resolving grievances that are within its scope, except as provided in Sections 2 and 3.
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> Section 2 – Definition
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> A. A grievance means any complaint by an employee(s) of the Union concerning any matter relating to employment, any complaint by an employee, the Union, or the Department concerning the interpretation or application of this Agreement and any supplements or any claimed violation, misinterpretation or misapplication of law, rule, or regulation affecting conditions of employment. The Union may file a grievance on its own behalf, or on behalf of some or all of its covered employees.

Sections B and C of section 2 enumerate employment matters that are excluded from the negotiated grievance procedure. None of the itemized exclusions relates to claims arising from an employee's relocation.

As we stated in *Nathan Patrick*, CBCA 4999-RELO, 16-1 BCA ¶ 36,341, at 177,196-97:

> By statute, the grievance procedures in a collective bargaining agreement applicable to a claim of a covered federal employee shall be "the exclusive

> administrative procedures for resolving grievances which fall within its coverage." 5 U.S.C. § 7121(a)(1) (2012). . . . *see also, e.g.*, *Walter S. Hammermeister*, CBCA 4891-RELO, 16-1 BCA ¶ 36,194 (2015); *Daniel L. Kieffer*, CBCA 4705-TRAV, 15-1 BCA ¶ 36,050.
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> . . . The Board has held that language making the grievance procedures applicable to a disagreement involving the interpretation of any law, rule, or regulation affecting "conditions of employment" subsumes travel and relocation expenses unless the collective bargaining agreement specifically provides otherwise.

See also Andrew Rector, CBCA 5218-TRAV, 17-1 BCA ¶ 36,619 (2016); *Martino H. Nguyen*, CBCA 5164-RELO, 17-1 BCA ¶ 36,616 (2016); *Robert Gamble*, CBCA 1854-TRAV, et al., 11-1 BCA ¶ 34,655, *motion for reconsideration denied*, 11-1 BCA ¶ 34,731.

Because claimant is covered by a collective bargaining agreement that does not explicitly and clearly exclude the claim from the mandatory grievance procedures for resolving disputes between the employee and the agency, the Board lacks authority to consider the claim.

Decision

The claim is dismissed.

Allan H. Goodman

ALLAN H. GOODMAN
Board Judge