



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 12, 2023

CBCA 7782-RELO

In the Matter of VERONICA G.

Veronica G., Claimant.

Nancy L. Caldwell, Chief, Travel Section, Customs and Border Protection, Department of Homeland Security, Indianapolis, IN, appearing for Department of Homeland Security.

SHERIDAN, Board Judge.

Claimant is a civilian employee of Customs and Border Protection (CBP or agency). She has asked this Board to review the agency's denial of additional reimbursement of residence transaction costs with regard to a residence purchased at her new duty station following a permanent change of station.

Background

Claimant was issued orders to report to her new duty station in Washington, D.C., on or around October 9, 2022. She was authorized reimbursement by CBP for real estate transaction costs incurred in the purchase of a new residence at her new duty station.

On March 3, 2023, shortly after the purchase of her new residence, claimant submitted a request for reimbursement of closing costs associated with the purchase of the new residence, totaling \$7781.83. This included the loan origination fee (\$1299), title search costs (\$1688.60), recording fees (\$117), lender's appraisal fee (\$616), credit report fee (\$58.85), escrow agent's fee (\$1269), and state revenue stamps (\$2733.38).

CBP determined that most of the expenses in claimant's voucher and accompanying financial disclosure were technically reimbursable, aside from minor exceptions. However, the agency initially denied reimbursement on the grounds that the total closing costs for the new residence (\$14,280.24) were fully covered by the seller's closing-cost-related credit (\$5000) and Welcome Home Grant (\$10,000).

Upon claimant's request for further review, CBP noted that the Welcome Home Grant was applicable toward a down payment as well as closing costs. In addition, claimant had paid a \$3000 deposit toward the down payment of the residence, which CBP determined could be considered down payment monies that were offset by the Welcome Home Grant. As a result, the agency added the \$3000 paid by claimant to the total closing costs, which reached a new sum of \$17,280.24. After deducting the \$15,000 in credits, CBP determined that it could reimburse claimant for \$2280.24 in allowable closing costs, which was processed on April 11, 2023.

Claimant disputed this reimbursement amount, instead seeking the full \$7781.83 per her original request. She argued that the down payment cost of \$16,650 should have been included in CBP's calculations, in addition to the \$14,280.24 in closing costs, totaling \$33,930.24. Following the deduction of the \$15,000 in credits, as well as a further \$3336 from a Coldwell Banker credit and unpaid seller's taxes, claimant alleged that the costs she incurred totaled \$12,592.86, rather than the \$3000 asserted by CBP.

In support of this number, claimant argued that a gift of \$9600 contributed by her fiancé toward the closing and down payment should be categorized as a payment by her and thus eligible for the offset against the Welcome Home Grant and other available credits, which would allow for additional reimbursement. CBP determined that this gift money could not be used in determining claimant's reimbursement amount, as her fiancé did not qualify as an immediate family member under the Federal Travel Regulation (FTR).

In response to CBP's denial of any additional reimbursement and CBP's subsequent reaffirmation of its position, claimant filed a claim with this Board.

Discussion

Transferred federal employees may request reimbursement for the real estate transaction expenses incurred incident to their purchase of a new residence. 41 CFR 302-11.6 (2022). Reimbursable expenses such as lender and broker fees, attorney fees, and other related costs detailed in 41 CFR 302-11.200, however, are separate from the payment of the purchase price. *See Kristin Pherson*, CBCA 2728-RELO, 12-1 BCA ¶ 34,948, at 171,817 ("The payment of the purchase price by purchaser to seller is the real estate transaction; it is not a real estate transaction expense."); *see also Joseph B.*, CBCA 7595,

23-1 BCA ¶ 38,285, at 185,891 (“‘Down payment’ has only one meaning and is a ‘portion of a purchase price.’”); *Adrian M. Wilson*, CBCA 4702-RELO, 15-1 BCA ¶ 36,031, at 175,989 (a down payment does not qualify as a reimbursable real estate transaction expense). CBP correctly declined to include in its calculation of claimant’s real estate transaction expenses the \$16,650 in down payment costs she asserted.

CBP also correctly notes that federal employees are not eligible for reimbursement of expenses they did not personally incur. *See Adrian M. Wilson*, 15-1 BCA at 175,990 (notwithstanding theoretical allowability of particular expense items, claimant may not recover for real estate transactional expenses borne by others). With regard to claimant’s assertion that the gift from her fiancé should count towards her reimbursable costs, the FTR states as follows:

Will the Government reimburse me for expenses incurred in connection with my residence transactions that are paid by someone other than me or a member of my immediate family?

No, the Government will not reimburse you for expenses incurred in connection with your residence transactions if they are paid by someone other than you or a member of your immediate family.

41 CFR 302-11.303.

Immediate family members, per the FTR, include a spouse, domestic partner, or unmarried child under the age of twenty-one. 41 CFR 300-3.1. “A domestic partner is defined as ‘an adult in a domestic partnership with an employee of the same sex’ who ‘[c]ertif[ies] that they would marry but for the failure of their state or other jurisdiction (or foreign country) of residence to permit same-sex marriage.’” *Cady L. Tyron*, CBCA 6625-RELO, 20-1 BCA ¶ 37,600, at 182,548 (quoting 41 CFR 300-3.1). Claimant’s fiancé is not her spouse and does not qualify as a domestic partner, thus preventing her from recovering expenses borne by him. *See Leslie A. Santos*, CBCA 6863-RELO, 20-1 BCA ¶ 37,706, at 183,051. Further, claimant herself noted in communications with CBP that she was never in direct possession of the \$9600 gift, which was wired directly from her fiancé to the title company. This Board’s case law and the FTR are unambiguous in their denial of reimbursement for costs not directly borne by the federal employee or a member of their immediate family. As such, claimant is not entitled to additional reimbursement.

Decision

The claim is denied.

Patricia J. Sheridan
PATRICIA J. SHERIDAN
Board Judge