



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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June 8, 2023

CBCA 7679-RELO

In the Matter of DIONICIO D.

Dionicio D., Claimant.

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

**SULLIVAN**, Board Judge.

Claimant seeks review of the denial by U.S. Customs and Border Protection, Department of Homeland Security (the agency) of his claim for property management expenses. Because regulations do not authorize reimbursement of property management expenses for property other than the residence from which claimant transferred, we deny the claim.

Background

In 2015, claimant received orders for a permanent change of station (PCS) from his official station in Arizona to a new official station in Mexico. The agency authorized a number of relocation allowances, including property management expenses for the Arizona property. In 2019, claimant received orders to move from Mexico to Guatemala. The agency continued to reimburse property management expenses. In 2020, claimant moved from Guatemala to his new official post in Texas. The agency reimbursed the property management expenses for the Arizona property until March 2022.

In October 2022, the agency transferred claimant from Texas to South Africa. Claimant accepted the position, relying in part on advice from an agency relocation advisor

that claimant still was entitled to property management expenses for his Arizona property. In January 2023, claimant's expense authorization was revised to add approved property management funding for an additional two years. However, the agency denied the funding on February 1, 2023, because property management expenses are only available for property used to commute to the last official station in the United States.

Claimant seeks the Board's review of the agency's denial for property management expenses of \$975, the sum of two months of property management fees (\$337.50 per month), and a one-time set-up fee of \$300.

### Discussion

As part of relocation expenses, agencies are permitted to offer employees allowances for property management expenses based upon eligibility requirements. 41 CFR pt. 302-15 (2022) (Federal Travel Regulation (FTR) pt. 302-15). For a PCS transfer within the continental United States (CONUS), a federal employee is eligible for property management allowances for a year from the effective date of transfer (with up to a one-year extension) or when they separate from government service. FTR 302-15.10. For a PCS transfer outside the continental United States (OCONUS), a federal employee is eligible for property management expenses from the time they transferred to a foreign post until: (1) they transfer back to an official station in the United States; (2) they complete their service agreement and remain at the foreign post without a new service agreement; or (3) they separate from government service. *Id.*

The employee may only receive a property management allowance for their "residence at the last official station in the United States from which [they] transferred." FTR 302-15.7. Residence is determined by two requirements: (1) it must be the residence "from which [the employee] regularly commute[s] to and from work on a daily basis"; and (2) it was the residence at the time of the official notification of transfer. FTR 302-11.100; *see Roger Henry*, GSBCA 16300-RELO, 04-1 BCA ¶ 32,581, at 161,199 (citing *William T. Orders*, GSBCA 16095-RELO, 03-2 BCA ¶ 32,389, at 160,289). Before transferring to South Africa, claimant's residence was in Texas, not Arizona. Claimant's rental in Texas was his residence because it is from where he commuted to his official station at the time of his transfer. Because claimant's most recent transfer was from his official station in Texas, where he resided, the agency may not reimburse property management expenses for the Arizona property. Claimant's ownership and intent to return to the Arizona property may signify his domicile is Arizona, but the FTR does not use domicile to define residence. *See Roger Henry*, 04-1 BCA at 161,199; FTR 302-15.7.

The agency was permitted to reimburse claimant for two years of property management expenses upon his return from Guatemala because of the sequence of claimant's

PCS orders. The agency reimbursed claimant's expenses following the March 2020 transfer from Guatemala to Texas because he transferred from an OCONUS post back to a CONUS post. FTR 302-15.4. That transfer started the one-year limitation clock for reimbursement of expenses, which the agency subsequently extended by another year. FTR 302-15.4, -15.10. Following this two-year period, however, the agency was permitted to only reimburse expenses for claimant's residence in Texas, his official station at the time of his most recent transfer.

It is unfortunate that claimant received erroneous advice from a relocation advisor, but it is well established that erroneous advice provided by a government official "cannot create or enlarge entitlements that are not provided by statute or regulation." *Emily G. Gibson*, CBCA 1160-RELO, 08-2 BCA ¶ 33,946, at 167,962 (citing *Joseph E. Copple*, GSBCA 168949-RELO, 06-2 BCA ¶ 33,332, at 165,290). While the agency approved the property management expenses in claimant's travel orders, that approval violated the restrictions of the FTR.

#### Decision

The claim is denied.

*Marian E. Sullivan*  
MARIAN E. SULLIVAN  
Board Judge