



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 15, 2010

CBCA 2020-RELO

In the Matter of GASSAMA MAMOUD

Gassama Mamoud, Clinton, MD, Claimant.

Debra J. Murray, Chief, Travel Section, National Finance Center, Customs and Border Protection, Department of Homeland Security, Indianapolis, IN, appearing for Department of Homeland Security.

GILMORE, Board Judge.

Claimant, Gassama Mamoud, an employee of Customs and Border Protection (CBP), has asked the Board to review the CBP's denial of his request to participate in the agency's guaranteed home sale program (GHSP). For reasons set forth below, we deny Mr. Mamoud's claim.

Background

Mr. Mamoud is an employee of CBP's Office of Field Operations. Mr. Mamoud relocated in the interest of the Government from his old duty station in Detroit, Michigan, to his new duty station in Reston, Virginia. His reporting date was February 19, 2008. His Employee Relocation Expense Authorization (Form 334) included allowances for the cost of selling his home at his old duty station and purchasing a home at his new duty station. There was no authorization for Mr. Mamoud to participate in the agency's GHSP, and there is no evidence that he had asked to participate in the program at the time he received his relocation orders.

Mr. Mamoud purchased a home in Maryland on July 30, 2008, and was reimbursed all allowable costs incurred in that transaction. Because Mr. Mamoud was having trouble selling his home in Michigan, he requested, and was granted, an amendment to his relocation authorization to allow property management services. Property management service fees were paid to a management company for services provided from August 2008 through February 2010.

Mr. Mamoud, because of problems he was encountering with his tenants, had earlier asked the CBP to allow him to participate in the agency's GHSP. CBP denied his request on September 16, 2009, advising him that it was the policy of the Office of Field Operations to offer the GHSP only to those employees who had "directed assignments" (classified as Category I employees), and Mr. Mamoud was not in this category. On May 20, 2010, Mr. Mamoud asked the Board to review the Government's September 16, 2009, denial of his request. We note that, at this time, we do not know the status of Mr. Mamoud's home sale efforts in Michigan. When the record was closed on August 13, 2010, Mr. Mamoud had not filed a response to CBP's reply, and he did not return telephone messages or reply to mail notices sent to him by the Board in this regard.

Discussion

While the governing statute and travel regulations, 5 U.S.C. § 5724 (2006) and 41 CFR 302-3.101 (2008), mandate that certain relocation expenses must be paid to an employee who is transferred incident to a permanent change of station, they do not require the agency to provide the GHSP benefits claimed by Mr. Mamoud. This relocation program may be offered to an employee at the discretion of the agency. CBP Directive 5330-020B, dated March 17, 2005, sets forth CBP's guidance on how eligibility for the program is to be determined by the agency.

The directive provides that employees may be eligible for the GHSP if they meet the following criteria:

7.1.1 the employee is being assigned to a non-bargaining unit position (reassignment, promotion, transfer, etc.), the agency has determined that the transfer is in the interest of the government, the relocation is incident to a permanent change of official station as prescribed under the FTR, the distance requirements . . . are met, current fiscal funding is available; and

7.1.2 the employee's authorizing official approved a directed assignment or approved funding for the GHS program as requested by the employee on his/her CBPF-334 in conjunction with the reassignment, promotion, transfer,

etc. The GHS program must be provided to employees with directed assignments.

Claimant admits that he was not relocated under a directed assignment and is not classified as a Category I employee. It appears that those not transferring under a directed assignment (Category II employees) can request funding for the program at the time of reassignment. However, Mr. Mamoud did not make this request and his authorizing official (the approving official for the program) did not authorize the program on his travel authorization. It had been the agency's policy to offer the benefit to only those employees subject to a directed assignment. Mr. Mamoud utilized the relocation program that was initially authorized. He later requested, and was granted, an amendment to his authorization to allow him to use management services. He then sought the GHSP benefit, which was denied. He is now effectively asking the Board to order CBP to allow him to participate in the GHSP.

Based upon the record, CBP's decision not to offer Mr. Mamoud the benefits of the GHSP is permissible under the applicable regulations. This program is not a program that is mandated for all employees transferring in the interest of the Government. It is a discretionary one. CBP had determined that it would offer the program only to employees transferring under a directed assignment. Mr. Mamoud was not such an employee. Mr. Mamoud has not submitted any evidence or cited any law establishing that CBP's determination was arbitrary, capricious, or contrary to law.

Decision

The claim is denied.

BERYL S. GILMORE
Board Judge