



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 8, 2007

CBCA 793-RELO

In the Matter of GENE KOURTEI

Gene Kourtei, Dayton, OH, Claimant.

Orlando Higgins, Personal Property Lead, Headquarters 88th Air Base Wing, Wright-Patterson Air Force Base, OH, appearing for the Department of the Air Force.

POLLACK, Board Judge.

Claimant, Gene Kourtei, a civilian employee of the United States Air Force, transferred in the interest of the Government from Hill Air Force Base near Ogden, UT, to Wright-Patterson Air Force Base in Dayton, Ohio, in May 2007. He seeks the Board's review of the Air Force's decision to disallow certain costs he incurred in connection with his move to Dayton.

Background

Under travel orders issued on April 4, 2007, Mr. Kourtei was authorized to transport his household goods (HHG) pursuant to a government bill of lading (GBL). The Air Force estimated that a GBL move, also commonly called an actual expenses move, would cost approximately \$8274. Mr. Kourtei decided that he would prefer to perform a self-move. Although he already owned a trailer, Mr. Kourtei, in an effort to ensure he would have a safe journey across the country, wanted to use a weight distribution hitch specifically designed for windy and hilly terrain. He states that the weight-distribution hitch was not available for rent so he purchased one. He also deemed it necessary to have his personal tow vehicle serviced to ensure he would not unduly stress the vehicle or experience a breakdown before

reaching the Dayton area. The services for which he wishes to be reimbursed included a thrust alignment, a transmission flush, oil change, and balancing of the tires.

Mr. Kourtei tells us that prior to incurring these expenses he made numerous inquiries about the expenses for which he would be eligible to be reimbursed by the Government under a self-move. He also reviewed the Joint Travel Regulations (JTR) for guidance. The only provision he could find that might have some application to his situation was paragraph C5154.F-1c.¹ When he was unable to get a definitive answer from personnel at Hill Air Force Base, he contacted the Transportation Management Office (TMO) at Wright-Patterson Air Force Base. In that office he located a counselor who seemed to be familiar with this issue. He asked her to confirm in writing her advice that he could be reimbursed the cost of the hitch and the expenses of servicing his vehicle. She sent him an electronic message confirming their conversation and assuring that expenses such as the “hitch, boxes and what not” could be reimbursed so long as a receipt was provided.

Mr. Kourtei accomplished his move and submitted a claim for reimbursement of his expenses. He provided receipts for the trailer hitch purchase (\$579.63) and for the vehicle servicing (\$243.86). The Air Force responded that he could not be reimbursed for the expenses attributable to purchase of the heavy-duty hitch and the servicing of his tow vehicle because these were not expenses that the Government is authorized to pay.

Mr. Kourtei maintains that he made every effort to obtain accurate advice concerning the expenses he could recoup in a self-move. He states that “[i]f not for the specific statements of [the TMO counselor] and vagueness of the regulations, I would have made alternate plans for service and towing.” Mr. Kourtei further points out that he acted in good faith to locate the applicable regulations and he relied on the advice of the TMO counselor that he could be reimbursed for the purchase of a weight-distribution hitch, as well as for the expenses incurred for maintenance of his vehicle. He also notes that by performing a self-move he saved the Government money.

Discussion

Under the Federal Travel Regulation (FTR) and the JTR, which implement the FTR and are applicable to civilian employees of the Department of Defense, when an employee is transferred to a new permanent duty station in the interest of the Government the Government will pay for the transportation of HHG to the new duty station. There are two

¹ This provision of the JTR enumerates the types of expenses incurred in transporting HHG that the Government will pay under a GBL move.

methods under which the Government may authorize transportation of HHG - the commuted rate method and the actual expense method. Under a commuted rate move, the employee is responsible for making all arrangements for the move and is compensated under the commuted rate schedule established by the General Services Administration. Under the actual expense method, the method prescribed for Mr. Kourtei, the Government assumes responsibility for arranging and paying for enumerated aspects of the move. The employee is not required to use the method selected by the agency. However, if an employee, whose move has been authorized under the actual expense method, chooses to perform a self move, reimbursement is limited to the actual cost incurred, not to exceed what the Government would have incurred under the method selected. Additionally, while the potential Government costs sets the cap on reimbursement, it does not, however, follow that every expense an employee incurs will be reimbursable, even though the expense might be considered reasonable under the circumstances and one that the employee deemed necessary to accomplish the move. Rather, reimbursement is based upon what the regulations, as interpreted by case law, permit.

In the instant matter, there is an earlier decision and interpretation of the regulations which is directly on point. In *James R. Adams*, B-252629 (Aug. 17, 1993), the Comptroller General, a predecessor to this Board in deciding reimbursement cases, addressed a virtually identical situation. There, Mr. Adams, finding no trailer available for rent, decided to purchase a trailer kit and miscellaneous supplies and to move his household goods himself. As is the case with Mr. Kourtei, Mr. Adam's decision saved the Government money, as the self-move cost less than the GBL allotment. The Department of Agriculture, however, disallowed the reimbursement, although at the same time it supported Mr. Adam's claim that the purchase was advantageous to the Government. The Comptroller General denied the expense for the trailer kit on the basis that there was no provision in the FTR which authorized reimbursement for purchase of a conveyance, such as a truck or trailer, as part of relocation expense. That precedent is followed in this decision.

In declining to order reimbursement to Mr. Kourtei, we note that there is authority to allow payment for purchases where the item is of minimal or nominal value. See *T. Michael Dillon*, B-223741 (Feb. 24, 1987); *Lawrence F. Fragomeli*, GSBCA 16086-RELO, 03-2 BCA ¶ 32,349 (allowing reimbursement for purchase of items such as boxes and packing material). The trailer hitch in this case is not comparable to what was allowed in those cases and is not of minimal or nominal value.

As currently stated, the regulations do not allow reimbursement, even if the method used would ultimately provide a financial benefit to the Government. To change that would require a change to the regulation. Consequently, where an employee is faced with a situation where the employee concludes that it needs to purchase an item of more than

nominal value in order to properly make the move, the employee should understand that reimbursement for that purchase will not be available. There, the better course may be to have the Government provide the move on a GBL basis.

We also deny the claim for costs associated with readying his vehicle for the move. While servicing the vehicle would likely enhance the reliability of the vehicle for the move, the fact is that servicing a vehicle is by its nature as much for personal preference as it is for a move. The charges being claimed, such as thrust alignment, transmission flush, and other named services are normal maintenance items performed on vehicles and ultimately and prudently need to be done at some time, even without the trip. The fact that Mr. Kourtei choose to have such maintenance done before proceeding on the trip does not translate maintenance of a personal vehicle into a relocation expense associated with moving household goods.

Finally, it is evident that Mr. Kourtei also challenges the denial in part because he was not able to obtain adequate advice concerning the type of expenses for which he would be eligible to be reimbursed. He states that had he received accurate information he would have made other arrangements. This is unfortunate, but while claimant may have been misled, that cannot override the fact that the Government has no authority to pay for the trailer hitch. It is well established that erroneous advice cannot serve as a basis for expanding claimants' entitlements. *See, e.g., Joseph E. Copple*, GSBCA 16849-RELO, 06-2 BCA ¶ 33,332, at 165,290 (*citing Federal Crop Insurance Corp. v. Merrill*, 322 U.S. 380, 384-85 (1947)). Similarly, the fact that an employee acts with the good intention to save the Government money cannot serve to justify payment of an expense that is otherwise unauthorized. *See, e.g., James L. Landis*, GSBCA 16684-RELO, 06-1 BCA ¶ 33,225, and cases cited therein.

Decision

The claim is denied.

HOWARD A. POLLACK
Board Judge

