



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 30, 2007

CBCA 729-RELO

In the Matter of DAVID STOCKWELL

David Stockwell, Damascus, OR, Claimant.

Lori Brock, Chief, Travel Section, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

SHERIDAN, Board Judge.

David Stockwell, an employee of the Department of Veterans Affairs (VA) in Portland, Oregon, was transferred from his duty station in Anchorage, Alaska, under a permanent change of station (PCS) travel authorization issued on September 21, 2006. Mr. Stockwell is requesting a review of the agency's decision refusing to adjust his compensation for moving expenses that he incurred when moving his household goods (HHG) while making that PCS.

Mr. Stockwell's household goods were moved, pursuant to a government bill of lading, by Relocation Management Worldwide, Inc. (RMW), a carrier selected by the agency. The actual weight of Mr. Stockwell's household goods was 19,740 pounds -- more than the 18,000 pounds whose transportation was the agency's financial responsibility.

The VA has a weight variance policy, whereby, if the actual weight of shipped goods is more than 110% of the pre-move survey weight, the agreed weight of the shipment will be no more than 110% of the pre-move survey. The pre-move survey set the estimated weight for Mr. Stockwell's household goods at 17,208 pounds. The Government determined that 110% of 17,208 pounds is 18,920 pounds, and calculated claimant's debt

based on that figure.¹ The VA has paid RMW \$30,772.60 for moving 18,920 pounds of Mr. Stockwell's belongings. The VA has calculated that it is responsible for moving 18,000 pounds of Mr. Stockwell's belongings at a cost of \$29,276.13 and that Mr. Stockwell is responsible for moving 920 pounds of his belongings at a cost of \$1496.47. The VA issued a bill of collection against Mr. Stockwell for \$1496.47, representing the 920 pounds of excess weight for which he was responsible in connection with the move.

Mr. Stockwell maintains that before the move, on September 19, 2006, the carrier wrote him a letter with an estimate of how much his household goods weighed. The letter stated: "it appears that the weight of your household goods could exceed the 18,000 pound weight limit The estimated weight of your household goods is 17,208 pounds. PLEASE KEEP IN MIND THIS IS ONLY AN ESTIMATE - COSTS WILL BE BASED ON ACTUAL WEIGHT." The letter goes on to remind Mr. Stockwell that the Government only covers the costs of moving 18,000 pounds of household goods, and that he would be liable for any costs associated with the excess weight.

Mr. Stockwell, however, maintains that when estimating the goods, RMW also told him that its estimate of the weight was "conservative," and he was not told until the day after his household goods were picked up by the carrier that the weight limit was exceeded. By that time, he avers, he was en route to the new duty station, and even then he was informed by the carrier that "there would probably not be a charge even though the weight limit was exceeded." Mr. Stockwell states that if he had been told that he might have to pay additional costs, he would have sold items that caused the excess weight.

Notwithstanding Mr. Stockwell's arguments, the bill of collection that was issued against him for the excess weight is valid and enforceable. Even if an employee is not told of the financial risk relating to excess weight, the employee is still responsible for those costs. Congress specifically limited the Government's obligation for costs of moving a transferred employee's belongings to 18,000 pounds. 5 U.S.C. § 5724(a)(2) (2000); *see also* 41 CFR 302-7.2 (2006) (the maximum weight of HHG that may be shipped or stored at Government expense is 18,000 pounds net weight). The Federal Travel Regulation (FTR) provides that "[i]f the shipment exceeds the maximum weight prescribed in § 302-7.2, the Government will pay the total charges and the employee will reimburse the Government for

¹Although 110% of 17,208 pounds is 18,929 pounds, the record indicates that the VA was only charged for moving 18,920 pounds of Mr. Stockwell's HHG and calculated claimant's debt based on that figure. We therefore use the VA's figure for the purposes of our decision.

the cost of transportation and other charges applicable to the excess weight.” 41 CFR 302-7.200.

Taken together, these rules are uncompromising; they prohibit the Government from paying for shipment of an employee’s household goods in excess of 18,000 pounds. *George W. Currie*, GSBCA 15199-RELO, 00-1 BCA ¶ 30,814; *Robert K. Boggs*, GSBCA 14948-RELO, 99-2 BCA ¶ 30,491; *Linda D. Brainard*, GSBCA 14598-RELO, 98-2 BCA ¶ 30,104; *Jayme A. Norris*, GSBCA 13663-RELO, 97-2 BCA ¶ 29,049.

Even when a carrier erroneously estimates that the weight of an employee’s belongings is under the 18,000 pound weight limit, the Government is not bound by those estimates. Erroneous or inaccurate advice by third parties cannot bind the Government to spend money in violation of statute or regulation. *Keith D. Weverstad*, GSBCA 14366-RELO, 98-1 BCA ¶ 29,438 (1997). Further, inadequate counseling or erroneous advice by the agency does not provide a basis for relieving an employee from liability for exceeding the statutory weight limit. *Charles S. Wayman*, GSBCA 14338-RELO, 99-1 BCA ¶ 30,169 (1998).

So, too, Mr. Stockwell’s argument that if he had known his goods would exceed the 18,000 pounds, he would have disposed of enough goods to lower the weight to no more than 18,000 pounds, is not well taken. Relocating federal employees are expected under the FTR to use the same care in incurring expenses to be reimbursed by the Government as they would in incurring expenses to be paid by themselves. If goods with excess weight were not appropriate for shipment at the claimant’s expense, they should not have been shipped at all. 41 CFR 301-2.3; *Currie*; *Wendy Castineira*, GSBCA 15092-RELO, 00-1 BCA ¶ 30,740 (1999); *Nicholas R. Delaplaine*, GSBCA 14961-RELO, 99-2 BCA ¶ 30,489; *Wesley G. Chubb*, GSBCA 13672-RELO, 97-2 BCA ¶ 29,034. Mr. Stockwell’s assertions that he would have disposed of belongings causing the excess weight does not relieve him of the obligation to repay the Government for shipment of his belongings in excess of 18,000 pounds. Mr. Stockwell received notification well in advance of the move that his belongings might exceed the 18,000 pound weight limit. This provided him with ample time to dispose of his excess goods. Moreover, as we indicated above, pursuant to statute, regulation, and well established case law, the Government is prohibited from paying for moving more than 18,000 pounds of HHG.

We conclude that the VA has properly established a debt in this case, and that Mr. Stockwell is responsible for the moving of 920 pounds of his belongings at a cost of \$1496.47.

PATRICIA J. SHERIDAN
Board Judge

#20235 CBCA 729-RELO DAVIDSTOCKWELL DECISION.wpd 7/27/07 Reviewed By:
PJS/CLH