



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 23, 2007

CBCA 740-RELO

In the Matter of FLORDELIZA VELASCO-WALDEN

Flordeliza Velasco-Walden, FPO Area Pacific, Claimant.

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

STERN, Board Judge.

Background

Flordeliza Velasco-Walden was permanently transferred by the Department of Veterans Affairs (VA) from Chicago, Illinois, to Manila, Philippines, in August 2005 (a permanent change of duty station (PCS)). At the time of her transfer, Ms. Velasco-Walden was informed by the VA's relocation services program manager in Washington, D.C., that she was entitled to be paid for property management services if she did not sell her residence in Illinois. The travel authorization furnished to Ms. Velasco-Walden authorized her expenditure of \$5000 for such services.

Ms. Velasco-Walden entered an agreement for property management services, at a cost of \$100 per month, beginning in November 2005. In 2006, Ms. Velasco-Walden submitted a bill to the VA for the property management services she had obtained from December 2005 through February 2006, at a cost of \$300. This invoice was paid in full by the VA in April 2006. Ms. Velasco-Walden submitted another invoice to the VA in May 2007, for property management services during the period from November 2006 to January 2007.¹

¹ The record indicates that these were the only two invoices that have been submitted. There was no explanation given the Board as to why Ms. Velasco-Walden did

Upon review of the latter invoice, the VA determined that Ms. Velasco-Walden was not entitled to be reimbursed for the cost of property management services since the property was not rented. The VA determined that the advice given Ms. Velasco-Walden, that she was entitled to reimbursement for property management services, was erroneous and that the first invoice should not have been paid. The VA seeks return of the \$300 that it has paid. Ms. Velasco-Walden states that she would not have incurred these expenses had she not been told by the VA that she would be reimbursed.

Discussion

The Federal Travel Regulation (FTR) describes property management services as,

programs provided by private companies for a fee, which help an employee to manage his/her residence at the old official station as a rental property. These services typically include, but are not limited to, obtaining a tenant, negotiating the lease, inspecting the property regularly, managing repairs and maintenance, enforcing lease terms, collecting the rent, paying the mortgage and other carrying expenses from rental proceeds and/or funds of the employee, and accounting for the transactions and providing periodic reports to the employee.

41 CFR 302-15.1 (2006).

This regulation authorizes a federal agency to pay for such services under certain conditions. The language of the regulation is clear. If the property is not maintained as a rental property, any services for management are not covered by the regulations. The VA has no basis to reimburse Ms. Velasco-Walden.

Ms. Velasco-Walden may not be reimbursed for her expenditures for these services even though she was informed by the VA that she would be paid (and in fact was paid for one period). The General Services Board of Contract Appeals has explained the law:

The Government is not bound by the erroneous advice of its officials even when the employee has relied on this advice to his detriment. *E.g.*, *John J. Cody*, GSBICA 13701-RELO, 97-1 BCA ¶ 28,694 (1996). Erroneous travel orders, reflecting mistaken assumptions on the part of authorizing officials, cannot obligate the Government to expend monies contrary to regulation. *Charles M. Ferguson*, GSBICA 14568-TRAV, 99-1 BCA ¶ 30,299; *James F.*

not invoice the VA for other periods.

Black, GSBCA 14548-RELO, 98-2 BCA ¶ 29,876; *William Archilla*, GSBCA13878-RELO, 97-1 BCA ¶ 28,799.

Lee A. Gardner, GSBCA 15404-RELO, 01-2 BCA ¶ 31,456, at 155,325-26. More recently, this Board has said:

Only expenses authorized by statute or regulation may be reimbursed, because allowing an agency to make a payment in the absence of such authority would violate the Appropriations Clause of the Constitution. The Supreme Court consequently has made clear that an executive branch employee's promise that the Government will make an "extrastatutory" payment is not binding. *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990); *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380 (1947); see *Bruce Hidaka-Gordon*, GSBCA 16811-RELO, 06-1 BCA ¶ 33,255; *Teresa M. Erickson*, GSBCA 15210-RELO, 00-1 BCA ¶ 30,900.

Bradley P. Bugger, CBCA 555-TRAV, 07-1 BCA ¶ 33,579 at 166,342.

Notwithstanding the erroneous advice provided by the VA, Ms. Velasco-Walden is not entitled to reimbursement for her property management services expenditures. The VA is entitled to a return of the \$300, which was mistakenly paid..

JAMES L. STERN
Board Judge