



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 9, 2009

CBCA 1521-RELO

In the Matter of MICHAEL V. TORRETTA

Michael V. Torretta, Ft. Myers, FL, Claimant.

Sheryl Butler Jamison, Senior Attorney, Administrative Law Section, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

DANIELS, Board Judge (Chairman).

Drug Enforcement Administration (DEA) Special Agent (SA) Michael V. Torretta challenges his agency's demand that he pay \$8990 in charges for the shipment and storage of his household goods consequent to his transfer from Virginia to Florida in May 2007. He asks to be relieved from paying for what he considers an excessive number of boxes and packing materials used by the mover engaged by the agency. In particular, he complains that one box delivered to him, weighing seventy-five to one hundred pounds, contained nothing but packing materials. He also asks to be relieved from paying for storage charges, on the ground that the agency did not advise him that he might be responsible for these costs. We find no fault with the agency's procedures or demand for payment, and therefore deny the claim.

Background

In February 2007, DEA informed SA Torretta that he would be transferred to Florida. It provided him with the agency's Permanent Change of Station Handbook and its Domestic

Permanent Change of Station Guide. Both of these documents explain the benefits and responsibilities of transferring employees. Among these benefits and responsibilities are that the agency will pay for the shipment of 18,000 pounds of household goods, and storage for ninety days (and possibly as many as 180 days) of the same amount of goods, but that the employee must pay for the shipment and storage of additional goods. DEA also sent SA Torretta a memorandum which reiterated this information and explained how charges for shipment and storage of goods weighing more than 18,000 pounds would be allocated. The employee acknowledged that he had been counseled as to these matters.

DEA contracted with Allied Van Lines (Allied) to move and store SA Torretta's goods. An Allied representative visited his home in March 2007 and informed him that his "shipment appears to be exceeding the weight maximum" of 18,000 pounds for which the agency would be responsible, and that he would have to pay charges associated with excess weight.

Allied packed and moved SA Torretta's goods in June 2007. By July, a driver had taken them, in two separate trips, to a storage facility in Florida. Certified weight tickets showed that the goods on the trucks weighed 24,620 pounds. Other certified weight tickets showed that the goods when placed into storage weighed 25,620 pounds.

While SA Torretta was working in Florida, DEA amended his travel orders to cover the costs of storing 18,000 pounds of the goods for 180 days. After the 180 days had passed, the employee paid the storage facility directly for the costs of continued storage.

The goods remained in storage until June 2008, when they were delivered to a home SA Torretta had purchased in Florida. The goods were weighed when they were removed from storage, and the employee was present for the weighing. This time, the certified weight tickets showed a total of 25,040 pounds.

In November 2008, DEA advised SA Torretta that he owed the agency \$9178 in shipping and storage charges associated with the weight of his goods in excess of 18,000 pounds. In February 2009, the agency adjusted the amount of the debt to \$8990. The latter amount was calculated on the assumption that the goods weighed 24,620 pounds -- the lowest of the weights ascribed to the goods in their three weighings. The total charges for the move, as adjusted, were \$33,433 -- \$16,652 for shipment from Virginia to Florida, \$6139 for the first ninety days of storage, \$5318 for the next ninety days of storage, and \$5324 for delivering the goods from storage. The portion of the charge for which DEA asserted SA Torretta was responsible was 26.89% (the number of pounds in excess of 18,000 (6620) divided by 24,620); 26.89% of the total charges of \$33,433 is \$8990.

Discussion

Congress has required an agency which transfers an employee to a new duty station, in the interest of the Government, to pay “the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking [the employee’s] household goods and personal effects not in excess of 18,000 pounds net weight.” 5 U.S.C. § 5724(a)(2) (2006). The Federal Travel Regulation faithfully implements this law’s limitation on the Government’s liability: “The maximum weight allowance of [household goods] that may be shipped or stored at Government expense is 18,000 pounds net weight.” 41 CFR 302-7.2 (2006). The 18,000-pound limitation is thus established by statute and regulation, so it leaves no room for compromise. *Charles E. Pixley*, GSBCA 16484-RELO, 05-1 BCA ¶ 32,887; *Robert K. Boggs*, GSBCA 14948-RELO, 99-2 BCA ¶ 30,491.

DEA explained all this and more to SA Torretta on several occasions prior to his transfer to Florida. It also explained how it would allocate charges between itself and the employee if the household goods it shipped and stored for him weighed more than 18,000 pounds. The employee should have known, before the move, that these procedures would be implemented, since the agency’s contracted mover cautioned him that his goods probably weighed more than 18,000 pounds. After the goods were delivered to his new home, the agency did precisely what it had advised it would do by way of allocating the costs of the move -- nothing more and nothing less.

SA Torretta urges that DEA should be faulted because it ultimately asserted charges for “SIT,” a term with which he and his colleagues were unfamiliar, rather than storage. “SIT” is an acronym for “storage in transit” -- a term which is synonymous with “temporary storage,” as used in the Federal Travel Regulation. *See* 41 CFR 302-7.8, -7.9. While the use of words rather than an acronym would have made the agency’s explanation more understandable, the decision to use the acronym does not affect our view that the agency adhered to the law in calculating costs allocated to the employee. SA Torretta also urges that he should not have to pay for the mover’s use of excess packing materials, including the shipment and storage of a box which held only packing materials. The regulation specifically provides that the weight of an uncrated shipment includes boxes and packing materials, however, *id.* 302-7.12(a), and the employee has provided no evidence as to what “excess” might be. Even if one hundred pounds were to be subtracted from the weight of the goods when removed from storage, to account for the box allegedly containing nothing but packing materials, the weight would be more than the weight on which the charges imposed by DEA were calculated, so those charges would be unaffected.

The claim is denied. DEA's calculation of the debt owed by the employee is correct.

STEPHEN M. DANIELS
Board Judge