



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 26, 2009

CBCA 1253-RELO

In the Matter of ELIAS ROLLIE-HARVENS

Elias Rollie-Harvens, Yorktown, VA, Claimant.

Captain Teah Lambright, Office of the Staff Judge Advocate, Department of the Air Force, Langley Air Force Base, VA, appearing for Department of the Air Force.

STERN, Board Judge.

Mr. Elias Rollie-Harvens was transferred by the United States Air Force (Air Force) from Robins Air Force Base, Georgia, to Langley Air Force Base, Virginia in June 2006. Mr. Rollie-Harvens incurred various real estate fees in connection with his purchase of a home at his new location. The Air Force does not deny Mr. Rollie-Harvens entitlement under the federal travel regulations to be paid real estate expenses incurred pursuant to the move; it, however, has disallowed certain of the expenses claimed by Mr. Rollie-Harvens.¹

¹ Subsequent to receipt of the parties' submissions, the Board made numerous attempts to hold a telephonic conference with the parties in an effort to bridge the minor differences on the remaining issues before the Board. The Board also sought to clarify by phone conference a possible discrepancy in figures submitted by the Air Force. For example, in its submission of October 29, 2008, the Air Force listed numerous items that it would pay Mr. Rollie-Harvens. These items total \$8877.15. Yet, in its summary, the Air Force states that it recommends that Mr. Rollie-Harvens be paid \$9177.15. The Board's attempts to hold a telephonic conference were frustrated by the failure of counsel for the Air Force to be available for such a conference.

Background

Mr. Rollie-Harvens submitted a claim to the Air Force for the reimbursement of \$14,533.06 for real estate expenses associated with the purchase of his new residence. In a submittal to the Board he revised this claim to \$11,213. The Air Force initially approved a payment to Mr. Rollie-Harvens of \$3067.40. By letter of June 27, 2008, the Air Force allowed a payment of an additional \$452. After the claim was filed with the Board the Air Force submitted a document approving a total payment of \$9177.15 to Mr. Rollie-Harvens. The Air Force identified eleven fees that it would not pay. The Air Force claims that these fees are not allowable or that claimant has failed to substantiate his claimed costs. In response, Mr. Rollie-Harvens provided additional support for six of the eleven items denied by the Air Force. Mr. Rollie-Harvens did not challenge the denial by the Air Force of the other expenses set forth in his original claim. The discussion below addresses only those six costs that remain in contention. Any payments authorized by this decision are in addition to the \$9177.15 that the Air Force has already agreed to pay.

Discussion

An employee is entitled to be reimbursed for certain expenses incurred in connection with his or her transfer from one official station to another. 41 CFR 301-11.1 (2006). Under certain conditions, satisfied by claimant here, expenses associated with the purchase of a residence at the new duty location must be paid. 41 CFR 302-11.6. The regulations set forth the type of expenses that are reimbursable. 41 CFR 302-11.200. Generally, we look to the settlement sheets to determine what expenses were paid by the purchaser. *Harlan C. Thiel*, GSBCA 13668-RELO, 97-1 BCA ¶ 28,710 (1996). However, we are not bound by those sheets. *Nishelle Grant*, CBCA 1245-RELO (Jan. 14, 2009).

Mr. Rollie-Harvens seeks to be reimbursed \$3775 for the loan origination fee, representing one percent of the purchase price of \$377,500. Loan origination fees not to exceed one percent are expenses payable under the regulations. 41 CFR 302-11.200 (f)(2). The HUD-1 settlement sheet discloses that claimant paid a loan origination fee of \$120 before settlement and \$3655 at settlement, for a total of \$3775. The Air Force mistakenly states that the HUD-1 form shows that only \$3655 was paid. Claimant is entitled to be paid the additional \$120.

Mr. Rollie-Harvens claims entitlement to a \$425 application and credit report fee. This fee does not appear on the settlement sheet. Claimant submits a statement from Wells Fargo Home Mortgage listing an “application fee” of \$425. However, the only \$425 entry on the settlement sheet is listed as an “appraisal fee.” The Air Force has already agreed to pay this fee. The unsubstantiated additional \$425 application and credit report fee is not allowed.

Mr. Rollie-Harvens seeks payment for a land survey fee of \$300. Under the regulations, survey fees are reimbursed if required for legal or financing purposes. 41 CFR 302-11.200(d); *William Duncan Baker*, CBCA 1145-RELO, 08-2 BCA ¶ 33,881. The survey fee is listed on the settlement sheet. However, claimant has produced no evidence that the fee was required by the lender or for other legal purposes. We deny reimbursement.

Mr. Rollie-Harvens also asks to be reimbursed a loan commitment fee of \$300. Such fees, however, are finance charges under the Truth in Lending Act, Title I, Pub. L. 90-321, as amended, and Regulation Z issued by the Board of Governors of the Federal Reserve System. *David P. Brockelman*, GSBCA 14604-RELO, 98-2 BCA ¶ 29,971. As such, this fee is specifically listed as unallowable under the regulations. 41 CFR 302-11.202(g); *Hwai-Tai Lam*, CBCA 703-RELO, 07-2 BCA ¶ 33,665. Claimant is not entitled to be paid this fee.

Mr. Rollie-Harvens also claims entitlement to a “title enhancement fee” in the amount of \$266.70. This amount appears on the settlement sheet as being paid to Peninsula Title Company, Inc. This amount is in addition to the title insurance fees of \$1433.50 (\$956 which has been allowed as lender’s coverage). The regulations permit payment for title insurance only to the extent required by and for the protection of the lender. 41 CFR 302-11.200(8). Claimant has submitted no evidence that the lender required this additional protection and that it was for the lender’s benefit. This claim is denied.

Finally, Mr. Rollie-Harvens asks to be paid a “termite and moisture inspection fee” in the amount of \$65. This amount does not appear on the settlement sheet. There is no receipt or other proof of this payment in the record. This claim is denied.

Decision

Mr. Rollie-Harvens is entitled to be paid \$120 in addition to the \$9177.15 already approved by the Air Force.

JAMES L. STERN
Board Judge