



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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May 31, 2016

CBCA 4899-RELO

In the Matter of JOHN T. BELLAMY

John T. Bellamy, APO, Area Europe, Claimant.

Christian H. Sorenson, Chief, Resources and Overseas Allowances, Department of the Air Force, Royal Air Force Mildenhall, England, appearing for Department of the Air Force.

**VERGILIO**, Board Judge.

The agency properly determined that claimant, who was outside the continental United States (OCONUS) when applying for and accepting a position, was a local hire OCONUS who did not satisfy criteria to negotiate an initial service agreement regarding travel and transportation. After appointment to the position, the claimant simply disavows the overseas employment agreement he signed in which he recognized that he was locally appointed and not eligible to sign a transportation agreement.

The claimant, John T. Bellamy, a civilian employee of the Department of the Air Force, has requested a review of his eligibility to negotiate an initial service agreement as a first time civilian employee. The agency determined that the claimant (1) was not recruited from within the continental United States (CONUS) such that he did not qualify for transportation benefits for the position OCONUS and (2) failed to meet the requirements to enter into an initial service agreement if deemed a local hire otherwise eligible to receive benefits. The claimant's application for and acceptance of the position within the United Kingdom occurred after he had fulfilled military deployment obligations, and while he was in the United Kingdom, where his spouse was employed. A claimant bears the burden of proof to demonstrate entitlement to the requested relief or that the agency acted contrary to applicable law, regulation, or rules. The regulations in effect on the date the claimant

reported for civilian duty in the United Kingdom are applicable; thus, although the claimant references newer numbered regulations, the Board looks to the applicable regulations with the old numbering.

The claimant worked for a contractor to the military. While so employed, the claimant was deployed to Afghanistan under involuntary orders between November 30, 2012, and November 23, 2013. During this period, the Department of the Air Force authorized the claimant's spouse as a non-military individual to perform official business for the Department of Defense in the United Kingdom for the period from November 1, 2013, through October 31, 2018, and authorized the claimant to accompany his spouse. On November 1, 2013, the claimant's spouse moved to the United Kingdom. On November 16, 2013, the claimant entered the United Kingdom to stay with his spouse, awaiting transfer to United Kingdom or return to United States after the end of his military leave. During this time, the claimant maintained a residence in CONUS.

In 2014, after his deployment period had ended, the claimant applied for a position with the Department of the Air Force with a duty station in the United Kingdom. The claimant was in the United Kingdom at the time he submitted his application. His submission states that he was on full time status working for a military contractor "awaiting project assignment while living in United Kingdom[.]" The claimant's application and resume utilize an address in the United Kingdom. The claimant obtained the job. On June 7, 2014, the claimant signed an "Overseas Employment Agreement (Locally Appointed)" with an effective date of June 30, 2014, which specifies that it is to be signed by an employee or applicant appointed locally who is not eligible to sign a transportation agreement. This specifies that the claimant understands and accepts the conditions established in the agreement. On June 25, 2014, the claimant terminated employment with the contractor, entering on federal civilian duty shortly thereafter.

Pay records indicate that in 2014 the claimant received pay from his employer (the contractor to the military) totaling an amount for less than one month of work. The record reveals that in 2014 the claimant was not in the United Kingdom because of his deployment, but because his spouse was there as he awaited a project assignment.

Substantively, the record reveals no agency impropriety in its actions or conclusions. The Joint Travel Regulations (JTR) specify that an initial agreement is not an entitlement for a locally hired person. JTR C5620-A.1. The agency determined that the claimant is ineligible to negotiate a service or transportation agreement because the claimant failed to satisfy the requirements set forth in JTR C5620-E.2.a(1) or (2). Parallels now are found in JTR 5836.

The JTR provides that an initial service agreement may be negotiated with an eligible local hire only if specific requirements are met. The requirements are described for a former military member and for an employee operating in support of the United States. A former military member must be (a) separated/retired locally (within the foreign OCONUS country in which is located the civilian position to which the individual is appointed) while serving in a foreign OCONUS area, and (b) be appointed before the expiration of that individual's authorization for return travel and transportation to a CONUS/non-foreign OCONUS area accruing from the prior military service. JTR C5620-E.2.a(1). For an employee operating in support of the United States, an employee of a Government contractor, one requirement is that the individual was recruited in a CONUS/non-foreign OCONUS area under employment conditions that provided for return travel and transportation allowances. JTR C5620-E.2.a(2).

The claimant is a former military member, but has not suggested that he was separated or retired within the foreign OCONUS or that he was entitled to return travel and transportation from a prior authorization. Therefore, the claimant has not satisfied C5620-E.2.a(1). The claimant was an employee of a Government contractor, but was not recruited in a CONUS/non-foreign OCONUS area under employment conditions that provided for return travel and transportation allowances. Because a requirement under part a(2) is not satisfied, the claimant is not eligible for the relief requested. Similarly, the claimant fails to satisfy the conditions identified in C5620-E.2.b, Requirement 2. That is, as a former employee of a Federal department or agency, the claimant was not separated by reduction in force, was not on a reemployment priority list, and had not been authorized a delay in return travel. The claimant also has failed to establish that he had authorization for return transportation as a dependent of the U.S. Armed Forces or a civilian Government employee serving under an initial agreement providing for return travel. Thus, the claimant satisfies neither element of Requirement 2.

The claimant posits a cost-benefit analysis tied to his remaining at the OCONUS location for longer than he would without the benefits, because he intends to depart with his spouse absent approval of the requested benefits. Because this analysis is speculative (as the record reveals no basis to assume that a local hire will be unavailable in the future or that clearances will need to be obtained for the next hire), the Board need not probe the details or provide further elaboration. The claimant's potential actions, based upon the claimant's own personal interests, are not part of the analysis identified in the regulations. The claimant was in the United Kingdom with his spouse at the time he applied for and accepted the present position in the United Kingdom. He lacked assignments from the military contractor; he was not on an active deployment; and, he has not identified any return rights. The claimant was a local hire. The claimant is not entitled to negotiate an initial agreement.

Accordingly, the Board denies the relief requested.

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JOSEPH A. VERGILIO  
Board Judge