



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 21, 2007

CBCA 524-RELO

In the Matter of ROBERT E. SOLOMON

Robert E. Solomon, Ellenwood, GA, Claimant.

A. V. Easter, Director, Indianapolis Transportation Payments Office, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

DeGRAFF, Board Judge.

In order for an agency to pay for shipping an employee's household goods, the goods must be shipped within the time allowed by the agency's regulations.

Background

In 2002, Mr. Robert E. Solomon was hired by the Department of Defense (DoD) and assigned to a permanent duty station in Ohio. In travel orders dated May 2, 2002, DoD authorized Mr. Solomon to ship his household goods to his duty station using a government bill of lading (GBL), which meant DoD would hire and pay a carrier to ship the goods. Mr. Solomon reported to his duty station on June 3, 2002. In September 2004, a GBL carrier shipped Mr. Solomon's household goods to his duty station in Ohio, and DoD paid the carrier's charges.

In August 2005, DoD decided it was not responsible for paying the cost of shipping Mr. Solomon's household goods because more than two years elapsed between the time he reported for duty in Ohio and the time his goods were shipped. As a result of this decision, DoD asked Mr. Solomon to repay DoD the amount it paid to the carrier.

Mr. Solomon asks us to review DoD's decision. He says someone in a DoD transportation office told his wife that DoD would pay for the shipment regardless of whether it occurred more than two years after he reported for duty in Ohio, so long as she made a request within the two-year period to have the goods shipped at some future time.

Discussion

As a civilian employee of DoD, Mr. Solomon was subject to the provisions of the Joint Travel Regulations (JTR). When Mr. Solomon reported to his duty station in June 2002, these regulations provided DoD would pay the cost of shipping an employee's household goods, so long as the goods were shipped within two years after the employee reported to his or her duty station. JTR C4051, C8305. There were only three exceptions to this requirement. First, the two-year period did not include time spent on furlough if an employee began active duty military service before the two-year period expired and was furloughed for the duration of the assignment to the duty station. Second, the two-year period did not include time during which shipping restrictions applied to an employee appointed to a duty station outside the continental United States. Third, the two-year period could be extended for up to two additional years if the agency extended the time for an employee to incur reimbursable residence transaction expenses. JTR C1057. Newly hired employees were not authorized to incur reimbursable residence transaction expenses. JTR C4051.

The general rule established by the JTR provided DoD would pay for the shipment of Mr. Solomon's household goods so long as the goods were shipped within two years from the date he reported for duty in Ohio. The exceptions to the general rule do not apply to Mr. Solomon because he was not a furloughed active duty military member, not appointed to a duty station outside the continental United States, and as a newly hired employee, not authorized to incur reimbursable residence transaction expenses.

Contrary to what Mr. Solomon's wife was apparently told, the JTR did not provide that DoD would pay for the shipment of Mr. Solomon's household goods regardless of when they were shipped, so long as she requested the shipment within two years after he reported for duty in Ohio. The JTR clearly provided DoD would pay only if the shipment was actually made within the two-year period. It is always unfortunate when an employee is provided with erroneous advice regarding relocation benefits. However, erroneous advice does not provide a basis for reimbursement. *Joel Williams*, GSBICA 16437-RELO, 04-2 BCA ¶ 32,769.

Mr. Solomon suggests he should not be required to repay DoD for shipping his household goods because repayment would be against equity and good conscience. Whether

repayment is against equity and good conscience is something an agency takes into consideration when it considers whether to waive a debt owed by an employee. 5 U.S.C. § 5584(a) (2000). Waiver of a debt, however, is solely within the agency's discretion and is not a matter for the Board to consider. *Patricia Russell*, GSBCA 14758-RELO, 99-1 BCA ¶ 30,291.

We are not free to ignore the provisions of applicable regulations when we consider a claim, *James F. Meyer*, GSBCA 14939-RELO, 99-2 BCA ¶ 30,490, and the regulations which apply to Mr. Solomon required him to ship his household goods within two years from the date he reported for duty in order for DoD to bear the cost of the shipment. Because Mr. Solomon did not ship his goods within the two-year period, DoD is not responsible for paying the cost of the GBL carrier.

Mr. Solomon's claim is denied.

MARTHA H. DeGRAFF
Board Judge