



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 1, 2008

CBCA 1162-RELO

In the Matter of JUDITH H. SCHARF

Judith H. Scharf, Strullendorf, Germany, Claimant.

Brian C. Berry, Assistant General Counsel, Department of Defense Education Activity, Arlington, VA, appearing for Department of Defense.

DANIELS, Board Judge (Chairman).

Judith H. Scharf retired from service as an employee of the Department of Defense Education Activity (DoDEA) in November 2006. Before joining DoDEA and accepting assignments overseas, Ms. Scharf lived in Georgia. Her final assignment was in Germany, and she and her husband have remained in Germany since her retirement.

Ms. Scharf initially asked DoDEA to ship to her in Germany household goods which, while she was employed by the agency overseas, were in non-temporary storage near her former home in Georgia. After opining both ways on whether this course of action was possible, DoDEA refused on the ground that government payment for such shipment is not permitted by regulation. Ms. Scharf and her husband then traveled to Georgia to sell her former residence there. She asked DoDEA to pay for their round-trip, business-class air travel from Germany and for rental of a car for three weeks while they were in the United States. She also requested that the activity reimburse her for all costs of storing and insuring her household goods. DoDEA agreed to pay for one-way economy-class air travel for Ms. Scharf and her husband from Germany to Georgia. It refused to make the other requested payments, however, again on the ground that the reimbursement is not permitted by regulation. Ms. Scharf now wants the Board to “help [her] to get [DoDEA] to do the right thing.”

Unfortunately for the claimant, DoDEA has already done the right thing: it has conscientiously followed the dictates of the Department of Defense's Joint Travel Regulations (JTR) in declining to make the requested payments. These regulations are faithful to statute in providing that an employee, on return from an overseas assignment, is entitled to no more than the costs of travel and transportation back to the actual place of residence at the time the assignment was made. JTR C5010 (table 9); *see* 5 U.S.C. §§ 5722(a), 5724(d) (2000). The JTR expressly make this limitation applicable to employees who are separating from government service after completing an agreed-upon period of service overseas. JTR C5085-B.1. The regulations also make such employees eligible for government payment for storage in transit of household goods, but only for a period not to exceed 180 days. JTR C5152-3, C5165-H.3.c. There is no provision in the regulations for reimbursing an employee who is separating from the service after working overseas for expenses of round-trip airfare from the overseas location or rental of an automobile in conjunction with such a round trip.

Additionally, the regulations do not permit the Government to pay for business-class air travel except in limited circumstances which involve emergency situations or approval in advance of travel. JTR C2000, C2004. As DoDEA points out, to the extent that reimbursement may be appropriate for the Germany-to-Georgia leg of the round trip Ms. Scharf and her husband took, because neither an emergency nor an advance approval was present, reimbursement must be at the government rate for economy-class travel.

Our predecessor in settling claims by federal civilian employees for relocation expenses, the General Services Board of Contract Appeals, considered a case much like this one. The employee who brought that case -- like the claimant here -- maintained that the Government should pay for shipping her stored household goods from the continental United States to her overseas retirement location because doing so would be less expensive than paying for her to travel and transport her goods to the place from which she was transferred overseas. The board rejected her claim, writing:

[T]he agency quite rightfully notes that what is proposed is not authorized either in statute or regulation and, therefore, cannot be done. It is well established that, absent a specific provision in statute or regulation which might permit it under certain circumstances, neither an agency nor this Board has the authority to waive, modify, or depart from the Government's official travel regulations for the benefit of any federal employee who is subject to them.

Furthermore, it is equally well settled that, even if compliance with these regulations will allegedly lead to inequities for the employee in question, this

still does not provide the agency with authority to expend public funds contrary to provisions of published regulations. As we have previously explained, if the rule were otherwise, executive branch employees could usurp the control over public funds that is lawfully that of the Congress or, where authorized by statute, of officials who promulgate these regulations.

Judith B. Gross, GSBCA 16265-RELO, 04-1 BCA ¶ 32,543 (2003), at 160,976-77 (citations omitted).

The claim is denied.

STEPHEN M. DANIELS
Board Judge