



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 11, 2008

CBCA 1083-RELO

In the Matter of EDWARD D. RUSSELL

Edward D. Russell, Lexington, SC, Claimant.

Cheryl Holman, Supervisor, Chief, PCS Travel Accounting, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

GOODMAN, Board Judge.

Claimant, Edward D. Russell, is an employee of the Department of Veterans Affairs (VA). He has asked this Board to review the agency's denial of reimbursement of certain costs he incurred during a permanent change of station (PCS) move.

Factual Background

Claimant was issued travel orders dated December 18, 2006, for a PCS move from Los Angeles, California, to Columbia, South Carolina. Claimant chose to use the VA-contracted home sale program relocation services for the sale of his residence at his old duty station. He was also authorized to itemize expenses incurred for his PCS move as a miscellaneous expense allowance (MEA) not to exceed two weeks' basic pay, and submitted a claim for various expenses incurred. On April 23, 2007, he submitted a travel voucher seeking reimbursement of certain expenses incurred in the relocation. The agency denied reimbursement of the following expenses with regard to the sale of his residence at his old duty station: home equity cancellation fee - \$509; notary fees - \$40; cleaning services - \$120. The agency also denied reimbursement of the following costs incurred for the purchase of the new home at the new duty station: locksmith fees - \$108; delivery service charges - \$26.06.

Discussion

Pursuant to 5 U.S.C. § 5724c (2000) federal agencies are authorized to enter into contracts to provide relocation services to transferring employees, including but not limited to making arrangements for purchase of an employee's residence at his old duty station. In denying some of the costs incurred in selling the residence at the old duty station the agency relies upon the Federal Travel Regulation (FTR). FTR 302-12.5 provides:

If I use a contracted-for relocation service that is a substitute for reimbursable relocation allowance, will I be reimbursed for the relocation allowance as well?

No, if you use a contracted-for relocation service that is a substitute for reimbursable relocation allowance, you will not be reimbursed for the relocation as well.

41 CFR 302-12.5 (2006).

In addition, FTR 302-16.202 reads in part:

[A] MEA cannot be used to reimburse:

. . . .

(b) Costs or expenses incurred but which are disallowed elsewhere in this subtitle;

. . . .

(d) Costs or expenses incurred for reasons of personal taste or preference and not required because of the move.

41 CFR 302-16.202.

The agency asserts that the home equity cancellation fee and notary fees, while incurred as the result of the sale of the residence at the old duty station, are not reimbursable because the employee chose to use the relocation service. We held in *Andres Arredondo*, CBCA 647-RELO, 07-2 BCA ¶ 33,650, that an employee was not precluded from receiving reimbursement for a relocation expense to which he would otherwise be entitled if the payment for a duplicate or similar expense was not included as part of the fee paid to the

relocation services contractor. *See also, Gary C. Duell*, GSBCA 15812-RELO, 02-2 BCA ¶ 32,034.

The FTR provides that a charge for prepayment of a mortgage or other security instrument in connection with the sale of a residence is payable as a miscellaneous expense, if the mortgage or other security instrument provides for this charge. 41 CFR 302-11.200(f)(7). In *Beatrice Shearn*, GSBCA 16642-RELO, 05-2 BCA ¶ 33,075, the General Services Board of Contract Appeals (GSBCA), our predecessor board in deciding these matters, held that a home equity line of credit note is a security instrument, i.e., a mortgage, and a charge for prepayment of same is reimbursable under this regulation. Claimant would therefore be entitled to reimbursement of this charge unless the relocation services contractor's fee included payment for a similar expense.

With regard to notary fees, the FTR provides that an agency will pay residence transactions expenses “[p]rovided that they are customarily paid by the seller of a residence at the old duty station or by the purchaser of a residence at the new official station” 41 CFR 302-11.200. Among the enumerated residence transactions expenses that may be reimbursed are “related notary fees . . . and other miscellaneous expenses.” Again, claimant would therefore be entitled to reimbursement of notary fees if they are customarily paid by the seller, unless the relocation services contractor's fee included payment for this expense.

The agency asserts that the cleaning services were a personal preference and therefore not reimbursable. The agency's position is correct. There is no provision in the FTR to reimburse an employee for cleaning a residence prior to sale.

With regard to the costs incurred in the purchase of the new home at the new duty station, the agency states that the delivery service charges were for the convenience of the employee and were not required as a condition to complete the purchase of the home. However, the claimant states that a change in the offer on the new residence in South Carolina required an original signature. Because claimant was in California, the realtor requested the documents immediately, and they were sent via delivery service overnight so as not to lose the offer.

The GSBCA had previously concluded that overnight delivery charges for delivering the requisite paperwork needed for closing to the various entities involved in the process, if reasonable, may be reimbursed if the claimant can demonstrate that their use was prompted by more than considerations of personal convenience and when it is clear that the fee was incurred either by claimant or someone working on his or her behalf, and not by the creditor. *See Martha V. Hooks*, GSBCA 16754-RELO, 06-1 BCA ¶ 33,198; *Monika Mayr*, GSBCA 16685-RELO, 05-2 BCA ¶ 33,106; *Douglas Tastad*, GSBCA 16543-RELO, 05-1

BCA ¶ 32,957. When such fees are incurred by the lender, they are regarded as part of the finance charge and are not reimbursable. *Rodney D. Hartleib*, GSBCA 16421-RELO, 05-1 BCA ¶ 32,812 (2004).

In this instance, the fees were not incurred by the lender but by the claimant. The immediacy of the need to transmit the signed documents was greater than that of personal convenience. Claimant is entitled to reimbursement for these costs.

With regard to the locksmith charges for the house at the new duty station, the agency asserts that the cost of replacing locks at the new residence was a personal preference and not reimbursable pursuant to FTR 302-16.202(d). The claimant states that the house was on the market for over nine months before he purchased it, and to feel secure and protect household goods, locks were changed. The agency is correct that this was a personal preference and not subject to reimbursement.

Decision

Claimant is entitled to reimbursement for some of the expenses under the conditions described above.

ALLAN H. GOODMAN
Board Judge