



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 20, 2008

CBCA 1342-RELO

In the Matter of THOMAS C.G. HELGESON

Thomas C.G. Helgeson, Apple Valley, MN, Claimant.

Kim Meyer, Deputy Human Capital Officer, United States Army Reserve Command, Fort McCoy, WI, appearing for Department of the Army.

STERN, Board Judge.

Claimant was employed by the Department of the Army's 88th Regional Readiness Command (Army) at Fort Snelling, Minnesota. The December 21, 2005, Base Realignment and Closure report (BRAC 2005 report) disestablished the 88th Regional Readiness Command and established the Northwest Regional Readiness Command Headquarters at Fort McCoy, Wisconsin.

After the announcement of the base closure, Mr. Helgeson applied and was selected for a position at the new location. This new position was not identified by the Army as a transfer of function (TOF) position. In other words, the Army determined that this new position was not identical to any position, including claimant's former position, that was being eliminated. Mr. Helgeson then applied for benefits under the Defense National Relocation Program (DNRP). The BRAC 2005 report describes the DNRP program as follows:

DNRP provides DoD [Department of Defense] civilian employees assistance to relocate promptly, thereby minimizing family separation and encouraging productivity at the new duty station. Each DoD agency establishes eligibility criteria for the use of DNRP by its transferring civilian employees. The Department of Army's policy entitles those homeowners whose positions are

effected [sic] by a management decision such as BRAC to use the services of DNRP.

Under the DNRP program, if certain conditions are met, a qualified employee can have his home purchased by the Government.

Benefits under this program were denied to Mr. Helgeson on the basis that the position which claimant seeks to fill is not eligible for DNRP benefits. Mr. Helgeson appeals the denial on the basis that his position was eliminated by the BRAC 2005 report and that he is entitled to DNRP benefits as part of his permanent change of station.

The Army argues that the position for which claimant applied and was selected authorized permanent change of station benefits but not DNRP benefits. This is because the duties of the new position would not include a transfer of claimant's function. See 5 CFR 351.301 (2008). The Army states that its policy is to state on its job announcement whether DNRP is authorized and that Mr. Helgeson's new position announcement did not provide for the DNRP program.

The Joint Travel Regulations (JTR) give the Army the discretion of determining whether to offer the home sales program to an employee. JTR C5800. The Army also has the discretion of identifying those positions which are TOF. 5 CFR 351.303. In accordance with the regulations, the Army's policy is that only those employees who transfer to a new position that has been identified to have the same function as the position eliminated are entitled to obtain the DNRP benefits, including the guaranteed home sale program.

Mr. Helgeson has chosen a position that the Army has not identified as transferring his function. This position, therefore, is not eligible for DNRP benefits. Under the regulations, it is the Army's responsibility to identify those positions with a transferring function. There is no evidence that the Army abused its discretion in this regard.

Mr. Helgeson's claim is denied.

JAMES L. STERN
Board Judge