



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 1, 2009

CBCA 1536-RELO

In the Matter of EVAN F. MELTZER

Evan F. Meltzer, Madison, MS, Claimant.

Lisa D. Ferguson, Program Manager, Household Goods, Department of Veterans Affairs, Washington, DC, appearing for Department of Veterans Affairs.

DRUMMOND, Board Judge.

Dr. Evan F. Meltzer, an employee of the Department of Veterans Affairs (VA), was transferred in 2007. Dr. Meltzer reports that the move did not go well. Ten months later, Dr. Meltzer's displeasure with the impact of the move intensified when the VA sent him a bill of collection demanding repayment of \$6356.73 in charges relating to the shipment of his household goods. The VA has refused to waive repayment of the amount which it perceives as a debt. Dr. Meltzer asserts that the amount claimed by the VA is not valid and has asked the Board to review the agency's denial of his request for waiver of the repayment.

Background

In 2007, Dr. Meltzer was relocated from Montana to Mississippi. The agency authorized reimbursement of expenses he incurred for the shipment of household goods weighing up to 18,000 pounds. The agency also authorized \$1662 towards the shipment of his privately owned vehicle (POV). Dr. Meltzer's household goods were moved in separate shipments to his new duty station by Armstrong Relocation (AR) under a government bill of lading (GBL) managed by the agency's third party representative, Relocation Management Worldwide (RMW).

Dr. Meltzer arranged with RMW for his shipment to originate in Montana, with a stop to pick up additional household goods in Texas, before traveling to his new residence in Mississippi. A representative of RMW informed Dr. Meltzer that the extra stop in Texas would be a reimbursable expense not covered by the VA. The carrier estimated the likely weight of items to be moved at approximately 21,927 pounds and calculated a charge of \$61.14 for the en-route stop in Texas to pick up additional items.

The VA has assessed Dr. Meltzer \$5926.66 for the charges attributable to the excess weight. The weight tickets and certified invoice indicate that the actual weight of the household goods exceeded the allowance authorized by the VA by 5160 pounds (23,160 - 18,000). The excess weight of 5160 pounds is exclusive of the weight of Dr. Meltzer's POV. The VA has also assessed Dr. Meltzer \$430.07 in addition to the previously charged \$61.14. The VA says that when the movers arrived in Texas, Dr. Meltzer's items were not ready to be transported, and the carrier continued on to Mississippi and dispatched a second truck to his Texas residence to transport his Texas goods. The VA says further that the sending of an additional truck to Texas increased Dr. Meltzer's charges by \$430.07. Finally, the VA notes that the total debt amount after subtracting a \$61.14 payment previously made by Dr. Meltzer is \$6356.73.

Dr. Meltzer asserts that the weight overage is attributable to the weight of his POV. He also asserts that a second truck was never dispatched to move his goods in Texas.

Discussion

Dr. Meltzer disputes the agency's determination that he owes \$6356.73 in additional charges relating to the shipment of his household goods. He also contests the agency's denial of his request for a waiver. The Board has the authority to settle claims involving expenses incurred by civilian employees for relocation expenses. Accordingly, we can review the agency's decision to hold Dr. Meltzer responsible for the charges associated with moving more than 18,000 pounds of household goods and the charge for the additional move. 31 U.S.C. § 3702 (2006). We do not have the authority, however, to waive his debt, or to review the agency's decision to deny his request for a waiver. The authority to waive a debt belongs to the head of the agency from which the debt arose, and not to us. *Sam Hankins*, CBCA 1309-RELO, 09-1 BCA ¶ 34,124, at 168,722 (citing *Helene Mikes*, GSBCA 15374-RELO, 00-2 BCA ¶ 31,138; *Michael J. Kunk*, GSBCA 14721-RELO, 99-1 BCA ¶ 30,164 (1998)).

The relevant statute, 5 U.S.C. § 5724(a)(2) (2006), authorizes an agency to pay for the transportation of (and related activities involving) household goods and personal effects not in excess of 18,000 pounds net weight. The statutory limitation is implemented in the Federal

Travel Regulation, which applies to all civilian employees of the Federal Government. 41 CFR 302-7.2 (2007). If the employee's goods and effects weigh more than 18,000 pounds, the employee is responsible for expenses associated with the additional weight. 41 CFR 302-7.200; *Susan L. White*, CBCA 1227-RELO, 09-1 BCA ¶ 34,021 (2008).

Here the agency has produced the certified weights for the shipments in question. Certified weight tickets are a common and accepted means of proving the weight of a shipment of household goods. *E.g.*, *Mikes*, 00-2 BCA at 153,784. Moreover, “[t]he burden of proving that certified weights for the movement of household goods are incorrect is exceedingly heavy and rests on the claimant. Agency determinations of net weight will be set aside only where a claimant can show clear and substantial evidence of error or fraud.” *Alan Poleszak*, GSBCA 16693-RELO, 05-2 BCA ¶ 33,066, at 163,888 (quoting *Robert G. Gindhart*, GSBCA 14288-RELO, 98-1 BCA ¶ 29,405 (1997)). Mere suspicion and speculation is not sufficient. It has proven difficult for claimants to successfully meet the burden of proof needed to negate the validity of certified weights. *White*, 09-1 BCA at 168,297. Dr. Meltzer has failed to show the the agency determination of the net weight was erroneous or fraudulent. He has also failed to successfully rebut the invoice in the record indicating that a second truck was, in fact, sent to his residence in Texas. Lastly, we have no reason to believe that the agency determination had anything to do with the transport of Dr. Meltzer's POV. The VA's calculation of the debt owed by the employee is correct.

The claim is denied.

JEROME M. DRUMMOND
Board Judge