



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 14, 2009

CBCA 1505-RELO

In the Matter of LOU ANN McCracken

Lou Ann McCracken, Mount Sterling, OH, Claimant.

Anne Schmitt-Shoemaker, Deputy Director, Finance Center, U.S. Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

GILMORE, Board Judge.

Lou Ann McCracken (claimant or Ms. McCracken) received a travel order from the U.S. Army Corps of Engineers (USACE) for a permanent change of station (PCS) from Washington to Ohio. Ms. McCracken has asked the Board to review USACE's refusal to reimburse her expenses of \$1135 incurred in shipping a second vehicle as a result of her transfer.

Background

____ Ms. McCracken is a civilian employed by the USACE. The USACE issued Ms. McCracken a travel order for her PCS in September 2008. Line 11 of Ms. McCracken's travel order authorized her travel by privately owned conveyance (POC), and line 16 authorized shipment of a privately owned vehicle (POV). Pursuant to this PCS, Ms. McCracken drove one vehicle from Prescott, Washington, to Mount Sterling, Ohio, and was reimbursed the per diem and transportation costs associated with that travel. Those costs are not in dispute. Ms. McCracken also paid \$1135 to ship a second vehicle. Ms. McCracken contends that she was authorized to transport both vehicles and should be reimbursed for the expense of shipping her second vehicle.

When Ms. McCracken called Fairchild Air Force Base (Fairchild), her outgoing base, to have her vehicle shipped, she was told that a vehicle was not authorized to be shipped under the Joint Travel Regulations (JTR), and Fairchild refused to ship the second vehicle. Ms. McCracken then called her travel order issuing official, and the official assured her that the JTR allowed shipment of the second vehicle as a discretionary allowance, and also told her that the weight of the vehicle would count toward the weight limitation for household goods (HHG). The official also told claimant that the shipment would be authorized by Ms. McCracken's supervisor, who approved her travel order. Relying on this advice, Ms. McCracken paid \$1135 to ship her second vehicle, assuming she would be reimbursed in the future. Subsequently, Ms. McCracken was denied reimbursement for the expense of shipping her second vehicle by USACE's Finance Center.

Discussion

By law, agencies are required to pay certain relocation expenses for their employees. 5 U.S.C. § 5724(a)(2) (2006). The Board is authorized by statute to settle claims brought by Federal civilian employees against the United States Government for relocation expenses incident to transfers of official duty station. 31 U.S.C. § 3702; *see Sam Hankins*, CBCA 1309-RELO, 09-1 BCA ¶ 34,124, at 168,722.

Reimbursement for Shipping a Vehicle

Ms. McCracken claims that under the governing statutes and regulations, and her travel order, she should be reimbursed for the transportation costs incurred in shipping her second vehicle. Ms. McCracken relies on Federal Travel Regulation (FTR) 302-9.302, which states: "You may transport any number of POV's within CONUS [the continental United States] under this subpart, provided your agency determines such transportation is advantageous and cost effective to the Government." 41 CFR 302-9.302 (2008). She contends that this authorizes the transport of more than one vehicle. However, 41 CFR 302-9.301 states (emphasis added):

Under what conditions may my agency authorize transportation of my POV within CONUS?

Your agency will authorize transportation of your POV within CONUS *only when*:

.....

(c) Your agency further determines that it would be more advantageous and cost effective to the Government to transport your POV to the new official station at Government expense and to pay for transportation of you and/or your immediate family *by commercial means* than to have you or an immediate family member drive the POV to the new official station.

The applicable regulation in the JTR contains similar language. JTR C5244-A.2. These regulations provide that the only circumstance in which an employee may be reimbursed for the shipment of a vehicle is if it is more advantageous to ship the vehicle and have the employee travel to the new station by commercial means. Here, Ms. McCracken did not travel by commercial means. Because Ms. McCracken drove her own vehicle from Washington to Ohio, she is not eligible to be reimbursed for the shipment of her second vehicle.

Transporting Multiple Vehicles

Even though the regulations allow an employee to transport “any number of POV’s within CONUS,” the regulations only allow an employee to be reimbursed for transportation of more than one vehicle when the employee moves with dependents. The regulations state: “When a traveler and dependent relocate incident to a traveler’s PCS move, reimbursement is authorized for one or two POCs (two POCs if the traveler has a dependent who is relocating)” JTR C2159-B.1. Because Ms. McCracken has no dependents, the Government is not required to reimburse Ms. McCracken for the cost of transporting her second vehicle.

Vehicles as Household Goods

Ms. McCracken was told by the USACE travel official that her vehicle could be shipped as a discretionary allowance and would be included in the pound limitation of HHG. But, by definition, Ms. McCracken cannot include her vehicle as a part of her HHG. JTR Appendix A, Part I: Definitions, states under HHG-B that “HHG *do not* include: . . . Automobiles, trucks, vans and similar motor vehicles”

Reliance on Advice from Travel Officials

Ms. McCracken claims that she should be reimbursed for the transportation of her second vehicle since she relied in good faith on the advice of her travel official who told her she would be reimbursed for the expense of shipping her second vehicle. The advice Ms. McCracken received from the official, however, was incorrect.

Unfortunately, the receipt of erroneous advice does not establish a basis for relief. The Government is not bound by the erroneous advice of its officials. *Bruce Bryant*, CBCA 901-RELO, 08-1 BCA ¶ 33,737 (2007). The Board does not have the power to grant Ms. McCracken any remedy that the law does not provide. *Defense Intelligence Agency Employee*, CBCA 976-RELO, 08-2 BCA ¶ 33,900 (“[w]hile we are sympathetic to claimant’s plight, there is no way that either this Board or the agency can right the wrong”); *Bruce Hidaka-Gordon*, GSBCEA 16811-RELO, 06-1 BCA ¶ 33,255. We cannot uphold an authorization that contravenes the law. *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634.

Decision

We sustain the agency’s position. Ms. McCracken is not eligible to be reimbursed for the expenses incurred from shipping a second vehicle to her current station.

The claim is denied.

BERYL S. GILMORE
Board Judge