



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 17, 2009

CBCA 1626-RELO

In the Matter of DEBORAH L. ARBITMAN

Deborah L. Arbitman, Pembroke Pines, FL, Claimant.

C. Bruce Sheaffer, Comptroller, and Suzanne Zurybida, Deputy Manager, Financial Operations, Accounting Operations Center, National Park Service, Herndon, VA, appearing for Department of the Interior.

HYATT, Board Judge.

In June 2007, claimant, Deborah L. Arbitman, accepted a transfer from the Department of Justice in Miami, Florida, to the National Park Service's (NPS's) Big Cypress National Preserve, in Ochopee, Florida. In connection with the transfer she was authorized relocation expenses including reimbursement of allowable costs associated with the sale and purchase of residences at the old and new duty stations.

Prior to her move, claimant spoke to her new supervisor about how she should list her residence in Miami for sale. The supervisor requested that Ms. Arbitman look for a low-cost realtor. The original asking price for the residence was \$699,000. Broker fees were in the neighborhood of six percent, which could have cost the NPS some \$40,000. In lieu of listing with a realtor, Ms. Arbitman advertised her residence with Buy Owner, Inc., a corporation that charges no real estate fees but requires an up-front advertising fee of \$5489. Due to market conditions, Ms. Arbitman was unable to sell her residence. She voluntarily decided to return to her former employer, the Department of Justice, to be with her family in Miami.

Discussion

NPS acknowledges that Ms. Arbitman made a conscientious effort to proceed in the most cost-effective manner to market her residence based on her supervisor's request to look for a low cost realtor. NPS's accounting staff, however, has concluded that there is no provision in the residence transactions allowances part of the Federal Travel Regulation (FTR), 41 CFR 302-11 (2007), that would permit the agency to reimburse advertising costs attributable to unsuccessful efforts to sell a residence at the old duty station.

The FTR provides that when an agency transfers an employee from one permanent duty station to another, the agency shall reimburse the employee for expenses required to be paid in connection with the sale of one residence at the old duty station. In order to be paid for such expenses the employee must submit to the agency copies of a sales agreement, as well as property settlement documents, loan closing statements, and invoices or receipts for bills paid. 41 CFR 302-11.302, 11.404. If no residence was sold, then there are no real estate transaction expenses to be reimbursed. *Samuel G. Baker*, GSBCA 15408-RELO, 01-1 BCA ¶ 31,276.¹

The NPS, which is sympathetic to claimant's situation, has asked the Board to advise whether it would be permissible to treat the advertising expenses as a recoverable itemized expense within the limits of the FTR's provision for a miscellaneous expenses allowance. This would permit the agency to reimburse an additional portion, although not all, of the expenses claimed.

The Board has recently addressed the purpose of the miscellaneous expenses allowance provided under FTR 302-16:

The miscellaneous expenses allowance (MEA) is for defraying various costs associated with discontinuing residence at one location and establishing residence at a new location in connection with a permanent change of station. 41 CFR 302-16.1 (2006). The MEA "is related to expenses that are common to living quarters, furnishings, household appliances, and to other general

¹ There is an exception to this rule, where a transfer for the convenience of the Government is canceled or otherwise modified by the agency and the employee is thereby prevented from completing the purchase of a residence. In those instances, expenses incurred by the employee may be reimbursed. *Christopher A. Haubert*, GSBCA 13980-RELO, 97-1 BCA ¶ 28,864.

types of costs inherent in relocation of a place of residence.” *Id.* 302-16.2. Reimbursable expenses include, but are not limited to, such things as fees for disconnecting and connecting appliances, equipment, and utilities; fees for cutting and fitting rugs, draperies, and curtains moved from one residence to another; and the costs of utility deposits or utility fees not offset by eventual refunds. *Id.* 302-16.1. The MEA does not cover, among other things, “[l]osses in selling or buying real and personal property and cost related to such transactions. . . .” *Id.* 302-16.203(a).

Byron P. Franz, CBCA 644-RELO, 07-1 BCA ¶ 33,550. In short, this is not the type of expense that may be recouped by itemization under the miscellaneous expenses allowance provision.

Decision

The claim is denied.

CATHERINE B. HYATT
Board Judge