



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 18, 2009

CBCA 1341-RELO

In the Matter of JOSHUA C. STUCKEY

Joshua C. Stuckey, Savannah, GA, Claimant.

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

STEEL, Board Judge.

Claimant, Joshua Stuckey, a civilian employee of the U.S. Army Corps of Engineers (USACE), seeks reimbursement of lease termination expenses in connection with his permanent change of station (PCS) move.

Background

In accordance with his PCS move from Raleigh, North Carolina to Savannah, Georgia, Mr. Stuckey certified¹ that he had discontinued his residency at his old permanent duty station, as of May 25, 2008, and sought reimbursement of unexpired lease payments in the amount of \$2708.06. In addition, in support of the claim, he submitted a copy of the lease and two letters from his landlord.

The lease lists Mr. Stuckey and another as “tenant,” and includes a provision which states that “tenant may not terminate the tenancy during the Initial Term,” which was October 15, 2007, to October 15, 2008. The lease allowed early termination only “if tenant is a member of the U.S. Armed Forces who has received permanent change of

¹ His travel voucher form includes the warning that there are severe civil and criminal penalties for knowingly submitting a false, fictitious, or fraudulent claim.

station orders to move fifty miles or more from the premises.” Mr. Stuckey is not a member of the U.S. Armed Forces. Finally, the lease specifically prohibits subleasing.

One letter from the landlord indicates that, per the lease, Mr. Stuckey could not terminate the lease and remained obligated for payment of the rent thereunder. The second letter from the landlord states that the lease expired on October 15, 2008, the lease has been completed, and the amount due by Mr. Stuckey has been paid in full. Mr. Stuckey asserted in his claim that he paid \$696.36 for seven days in May 2008, and June 2008, and \$2012.50 for the months of July, August, and September, and fifteen days of October 2008.

The Government does not dispute the amounts claimed, but rather disputes that the landlord’s letters are sufficient proof of payment by Mr. Stuckey. The Government has not provided evidence to the contrary.

Statute and the Joint Travel Regulations (JTR) provide for reimbursement (including month-to-month rental) of an employee’s costs of settling an unexpired lease where the lease terms provide for payment, and payment cannot be avoided by subleasing or other arrangement. 5 U.S.C. § 5724a(d)(1)(2006); JTR C5762.

The Government, citing *Daniel Janusz*, GSBICA 14653-RELO, 99-1 BCA ¶ 30,121 (1998), initially denied Mr. Stuckey’s claim because there was another tenant who remained in the apartment for the balance of the lease period. This case is distinguishable from *Janusz*, however, because according to the lease Mr. Stuckey and his roommate were not co-tenants. Therefore, Mr. Stuckey remained personally obligated for his share of the lease payments, and his roommate, unlike the roommate in *Janusz*, was not liable for Mr. Stuckey’s portion. The Government is not excused from its obligation to reimburse Mr. Stuckey by the fact that another tenant, who was only responsible for his own portion of the rental payment, remained at the property.

Decision

Mr. Stuckey is entitled to receive payment in the amount of \$2708.06.

CANDIDA S. STEEL
Board Judge

