



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 5, 2010

CBCA 2076-RELO

In the Matter of ROBBIE R. NEWLAND

Robbie R. Newland, Mainz Kastel, Germany, Claimant.

Patrick J. Cunningham, Defense Finance and Accounting Service, Department of Defense, Indianapolis, IN, appearing for Department of Defense.

STERN, Board Judge.

Background

Claimant, a civilian employee of the United States Army Corps of Engineers (Corps of Engineers), accepted permanent change of station orders in March 2007 transferring him from Portland, Oregon, to a Department of Defense activity in Wiesbaden, Germany. As part of the transfer, and in accordance with statute and regulations, claimant was authorized an allowance for the shipment of his household goods. In June 2010, claimant received a letter from the Defense Finance and Accounting Service (DFAS) noting that the weight of the shipment of his household goods was 29,887 pounds, including packing materials. Allowing fifteen percent for packing materials, the DFAS letter stated that claimant exceeded the authorized shipping allowance of 18,000 pounds by 7404 pounds. By allocating the percentage of the excess weight to the total weight, DFAS calculated that a charge of \$12,192.40 was attributable to the household goods shipped in excess of 18,000 pounds. ¹ DFAS seeks repayment by claimant of the \$12,192.40.

Claimant asserts that the Joint Travel Regulations (JTR), which are applicable to civilian employees of the Department of Defense, provide that when an excess weight shipment is known or suspected prior to transportation, the transportation officer must notify

¹ An earlier assessment of an even greater amount was adjusted in this correspondence.

the employee of this status. Claimant alleges that he should have been notified of the excess weight before the shipment so that he could have taken action (unspecified) to mitigate his exposure. Claimant states that the failure to advise him of the excess weight should relieve him of the responsibility to pay the assessment.

Discussion

When an employee is transferred from one duty station to another, statute authorizes the agency to pay the expenses of transporting the employee's household goods "not in excess of 18,000 pounds net weight." 5 U.S.C. § 5724(a)(2) (2006). The statute leaves no room for compromise. An employee must pay all costs associated with the weight in excess of 18,000 pounds. *Steven P. Shafran*, CBCA 656-RELO, 07-2 BCA ¶ 33,603. The JTR likewise provides that the maximum net weight that may be transported at Government expense is 18,000 pounds. JTR C5154.B.

Claimant's argument that the failure of the Corps of Engineers to notify him of the excess weight of the shipment relieves him of the obligation to pay, also fails. We have previously held that the erroneous advice of a government agent does not entitle an employee to reimbursement for shipments in excess of that allowed by the statute. *Bruce Bryant*, CBCA 901-RELO, 08-1 BCA ¶ 33,737 (2007). Similarly, the failure of the agency to notify claimant of the excess weight provides no basis for relief. *See Marina A. Galindo*, GSBCA 15501-RELO, 02-1 BCA ¶ 31,775 (recovery denied even when the employee was informed before shipment that the weight of the shipment, which actually was 19,722 pounds, did not exceed 18,000 pounds).

Decision

The claim is denied.

JAMES L. STERN
Board Judge