



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 3, 2010

CBCA 1881-RELO

In the Matter of ELERIDGE E. McCACKING, JR.

Eleridge E. McCacking, Jr., Panama City, FL, Claimant.

William T. Everette, Jr., Office of the Staff Judge Advocate, Department of the Air Force, Keesler Air Force Base, MS, appearing for Department of Defense.

VERGILIO, Board Judge.

A seller of a home in connection with a change of duty station is not entitled to recover from the Government the costs of house, flood, and wind insurances or mortgage interest for three and one-half months, when the relocation services contractor allegedly delayed the purchase. Under the guaranteed homesale program, the Government pays the contractor for services; the seller is not entitled to be paid by the Government for survey costs incurred in the sale, even if survey costs would have been reimbursable in a direct sale.

As a civilian employee of the Department of Defense (DoD), claimant, Eleridge E. McCacking, Jr., received written authorization to change his permanent duty station within the continental United States, with a reporting date of January 21, 2009. The authorization specifies that the claimant is eligible to use the DoD national relocation program (DNRP) to sell his residence at the old duty station when the residence meets real estate requirements found in regulations. The DNRP is designed to assist eligible and authorized employees in relocating. A noted benefit of the program is that it offers a guaranteed homesale as an option. In the DNRP program, it is a contractor to the Government that provides relocation services and would offer to purchase the house of a seller. The Government does not purchase a residence under the guaranteed homesale program.

The claimant elected to participate in the DNRP and obtained a guaranteed sale of his residence. The claimant seeks to be paid \$3982.33 in reimbursable expenses incurred in connection with his sale. The particular costs are \$3082.33 for house, flood, and wind insurance policies, and mortgage interest incurred over a three and one-half month period

which he attributes to dilatory practices by the contractor in the DNRP in prolonging its purchase of his residence, and \$900 for a survey said to be required by the DNRP contractor.

The Joint Travel Regulations (JTR), applicable to this civilian employee, identify mortgage insurance, insurance against loss or damage of property, and interest on loans as non-reimbursable items. Insurance and mortgage interest costs are not identified elsewhere as reimbursable items. JTR C5756-A.4.b. Because the claimed insurance and interest costs are not reimbursable under the regulations, the agency properly denied payment of \$3082.33.

Regulations address reimbursement when an employee uses relocation services. Specifically, “[o]nce an employee accepts relocation services, reimbursement to the employee must not be allowed for expenses authorized in other JTR Parts that are similar to expenses/service costs paid under the relocation service contract.” JTR C5810-B. The applicable DNRP handbook (revised June 2008) explains in its preamble that the program “offers an optional alternative to the PCS reimbursement process for those authorized employees who must sell their primary residences.” Section 5 highlights that use of the homesale program eliminates some of an employee’s entitlement: “NOTE: If you subsequently decide not to accept the DoD Relocation Contractor’s offer, your PCS sales expense entitlement will be reinstated. No dual benefits will be allowed.” In section 7, the handbook addresses the guaranteed homesale service, specifying that it “is an alternative to your Joint Travel Regulations (JTR) real estate expense reimbursement entitlement.” This section again states, noting the prohibition against dual payments or benefits, that the guaranteed home sale is an alternative to selling the home oneself and being reimbursed for real estate expenses.

As the JTR provision indicates, and the handbook makes clear, by selling the residence through the guaranteed home sale program, the claimant lost entitlement to costs associated with the sale of his home. The ramifications of the election and sale are expressed in case law. *John D. Stringfellow*, GSBCA 16268-RELO, 04-1 BCA ¶ 32,616 (survey costs disallowed under guaranteed home sale). The claimant used the relocation program and elected a guaranteed home sale as a substitute for reimbursement of otherwise compensable costs of the home sale. Whether the costs are compensable or not had the claimant incurred the survey costs (to secure a valid legal description of the property being sold as one unit arising from two separately purchased parcels) in a direct sale, the costs are not compensable to the claimant who utilized the guaranteed homesale program. The agency properly denied the request for payment of survey costs incurred by the claimant.

JOSEPH A. VERGILIO
Board Judge