



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 11, 2011

CBCA 2143-RELO

In the Matter of MARK R. KANIUT

Mark R. Kaniut, Dana Point, CA, Claimant.

Judy Hughes, Standards and Compliance, Finance Mission Area, Travel Pay, Defense Finance and Accounting Service, Department of Defense, Columbus, OH, appearing for Department of Defense.

McCANN, Board Judge.

This claim involves a determination by the Defense Finance and Accounting Service (DFAS) that Mark Kaniut, a civilian employee of the Department of the Army, is not entitled to the cost of transferring his twenty-three foot Wellcraft boat to his new permanent change of station (PCS) location.

Background

Mr. Kaniut was issued PCS orders in June 2006, transferring him from Fort Belvoir, Virginia, to Huntington Beach, California. The PCS orders authorized the shipment of household goods, not to exceed 18,000 pounds, by government bill of lading. Mr. Kaniut contacted the Joint Personal Property Shipping Office, Washington Area, concerning the shipment of his household goods, and was advised that his boat could not be shipped as a household good since the boat exceeded the size limitation. Mr. Kaniut inquired as to what authorization would be needed for the Army to cover the cost of moving the boat and was advised, according to him, that he would need an amendment to his orders. Subsequently, by memorandum dated September 22, 2007, Mr. Kaniut requested an administrative change

to his orders that would allow his authorized shipping weight for household goods to include the boat. In October 2007, an amended order was issued stating,

Employee authorized to self solicit costs for movement of his personally owned boat. Total amount paid by the Government will not exceed the Government-arranged costs of transporting the HHG [household goods] combined weight in one lot by the usual mode/route from the Fort Belvoir, Virginia area to the Huntington Beach, California area (JTR, Vol. 2, C5141-1).

After his move, Mr. Kaniut submitted a claim to the DFAS Columbus, Ohio Center for reimbursement of \$3300, the cost he incurred for shipping his boat. Mr. Kaniut claimed entitlement to reimbursement under the miscellaneous expense allowance and later under the allowance for shipment of household goods. DFAS denied the claim, indicating that under the Joint Travel Regulations (JTR) the boat was not a household good and that Mr. Kaniut was responsible for the transportation costs of articles that are not household goods.

Discussion

The JTR applies to civilian employees of the Department of Defense. Appendix A1 of the JTR (Definitions) defines household goods.

HOUSEHOLD GOODS (HHG) (FTR, § 300-3.1). Items (*except those listed in B and C*) associated with the home and all personal effects belonging to an employee and dependents on the employee's effective date of transfer or appointment . . . that legally may be accepted and transported by a commercial HHG carrier.

A. HHG include:

. . . .

6. Boats (and/or their associated trailers) of reasonable size that can fit into a moving van (e.g., canoe, skiff, dinghy, scull, kayak, rowboat, sailboat, outboard/inboard motorboat); and

. . . .

B. HHG do not include:

. . . .

7. Boats (other than those in A6 above). . . .

Although the agency did Mr Kaniut a disservice by purporting to authorize a reimbursement that it had no power to authorize, DFAS is correct that Mr. Kaniut's claim must be denied. A twenty-three foot Wellcraft is not a household good. It simply is not a boat of reasonable size that can fit into a moving van and which is along the lines of a canoe, skiff, dinghy, etc. The line between when a boat fits or does not fit the A.6 definition is not clearly drawn. However, canoes, dinghies, kayaks, etc. are much smaller boats than a twenty-three foot Wellcraft. Such a boat falls squarely within the category defined in paragraph B.7 that does not constitute a household good.

Mr. Kaniut, nevertheless, argues that he is entitled to reimbursement because he was advised by the Joint Personal Property Shipping Office that he could be reimbursed for the transport of the boat if such authorization was set forth in his orders. Following this advice, he requested and received an amendment to his travel authorization indicating that he would be reimbursed up to the maximum weight allowed for household goods (18,000 pounds). Unfortunately, the advice allegedly provided by the Joint Personal Property Shipping Office was erroneous, and the fact that such an authorization was included in his travel authorization does not entitle him to reimbursement. This Board and the General Services Board of Contract Appeals (GSBCA), our predecessor in considering these matters, have consistently held that even if an agency makes a commitment to reimburse an employee for expenses which the employee was not eligible to receive, the commitment cannot overcome the fact that Congress has not authorized such reimbursement. *See, e.g., Andrew J. Marks*, CBCA 672-RELO, 07-2 BCA ¶ 33,602; *Kevin R. Kimiak*, GSBCA 16641-RELO, 05-2 BCA ¶ 33,007. Only the expenses authorized by statute and regulation may be reimbursed. *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634, and cases cited therein. Accordingly, since his boat is not a household good, Mr. Kaniut is responsible for paying for its transport. JTR C5154-F.2.c.

This Board and its predecessor have expressed dismay at actions taken by agencies which may have mislead employees into believing they will receive benefits to which they are not entitled, and thereby incur costs based on such reliance. We have encouraged agencies to ensure that that they provide accurate advice. *Marks*. We here do so again. We further encourage agencies to insert in their orders a notice indicating that to the extent that their orders may conflict with regulation, the regulation prevails.

Mr. Kaniut makes further arguments that the amendment to his orders, ostensibly authorizing the shipment of his boat, superceded the travel regulations and also that he is

entitled to a proportional amount (\$1671.78) of the cost of the boat shipment. These arguments lack merit for the reasons stated above.

Decision

The claim is denied.

R. ANTHONY McCANN
Board Judge