



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 31, 2011

CBCA 2152-RELO

In the Matter of CHARLES G. IKINS

Charles G. Ikins, Canberra, Australia, Claimant.

Tina Gilbert, Entitlement Specialist, Defense Finance and Accounting Service, Columbus, OH, appearing for Department of Defense.

SOMERS, Board Judge.

In December 2010, the Department of Defense (DoD) transferred civilian employee Charles G. Ikins from Washington, D.C., to Canberra, Australia. Mr. Ikins' travel orders authorized him to ship one personally owned vehicle (POV) to Canberra. Based upon guidance from embassy personnel, Mr. Ikins elected to purchase a used vehicle upon his arrival in Canberra, rather than ship his own vehicle, and seeks reimbursement for the costs incurred to register this vehicle, including the transfer fee of \$665, the renewal registration fee of \$401.42, and the vehicle inspection fee of \$47.50.

While the DoD Washington Headquarters Services approving authority for permanent change of station orders concurs with Mr. Ikins' request, the Travel Operations Division, Defense Finance and Accounting Service (DFAS), which is the office responsible for settlement of Army permanent change of station (PCS) claims, denied the claim. DFAS determined that the Joint Travel Regulations (JTR) addressed reimbursement for expenses related to bringing vehicles into some jurisdictions, but did not provide a legal basis for reimbursing expenses incurred for expenses related to vehicles purchased in the new permanent duty station. DFAS advises that the office has no objection to paying Mr. Ikins' claim if there is a legal basis within the travel regulations to do so.

Discussion

An employee who is transferred in the interest of the Government is entitled to reimbursement for certain miscellaneous expenses. 5 U.S.C. § 5724(f) (2006). The JTR, Volume 2, authorizes a miscellaneous expense allowance (MEA) to reimburse the employee for various costs in connection with a PCS residence relocation. The purpose of the MEA is to defray various contingent costs associated with discontinuing a residence at one location and establishing a residence at a new location.

Employees may elect to claim a flat amount of the current rate of either \$500 (without dependents) or \$1000 (with dependents) for allowable miscellaneous expenses without receipts or itemized statements. JTR C5310-B. The authorizing official may approve a higher amount in excess of the flat rate if the claim is supported by evidence of expenses incurred and the total amount does not exceed: (1) one week's salary if the employee is without dependents or (2) two weeks' salary if the employee has dependents who were relocated. The allowable amount cannot exceed the maximum rate (step 10) of GS-13, as established pursuant to 5 U.S.C. § 5332. JTR C5310-C.

Reimbursable costs include such items as fees for disconnecting and connecting appliances; cutting and fitting rugs moved from one residence to another; unrefunded utility fees or deposits; forfeiture losses on medical, dental, and other non-transferrable contracts; and costs of automobile registration and driver's license. JTR C5310-D.

As a general rule, the cost of automobile registration includes fees incurred for license plates and for mandatory inspections and emissions tests. *E.g., Troy W. Cavenee*, GSBICA 15635-RELO, 02-1 BCA ¶ 31,683 (2001) (citing *Genesh C. Bhuyan*, B-202906 (Sept. 15, 1982)). If there is a requirement imposed by law for the installation of a particular type of pollution control equipment, as is the case in California, this cost may also be included as an allowable item of miscellaneous expense. *Joseph T. Grills*, 56 Comp. Gen. 53 (1976). The reasoning underlying this exception is that the cost of installing the pollution control device was an integral part of the vehicle registration process in California for an automobile that had previously been registered in another state. *John D. Johnson*, B-206538 (Sept. 14, 1982). However, this rule applies only when an automobile is brought into the new jurisdiction.

In this case, Mr. Ikins did not bring his personal vehicle to the new jurisdiction. Instead, he purchased a vehicle upon arrival. Mr. Ikins' reason for doing so was sound – he proceeded in accordance with guidance he had received suggesting that bringing a left-hand-drive vehicle to a country in which vehicles were driven on the right-hand side would be ill-advised. Indeed, it appears that, based upon a review of various websites provided by

Mr. Ikins in his submission, in order to register and drive his vehicle in Australia, he would have been required to convert his car to right-hand-drive. See http://www.infrastructure.gov.au/roads/vehicle_regulation/bulletin/importing_vehicles/general/considerations.aspx (last visited January 31, 2011). Mr. Ikins' travel orders authorized him to ship one vehicle, and, upon arrival, in order to drive the vehicle, Mr. Ikins could have had the vehicle converted to right-hand drive. Mr. Ikins could have sought reimbursement for such expenses, up to the maximum allowable rate permitted by the regulation (i.e., two weeks' salary of a Grade GS-13 employee, Step 10). The record provides no indication of how much a conversion might cost. One website explains, however, that the conversion is not simply a matter of swapping a steering wheel from the left side of the car to the right. Rather, it includes "the removal of the vehicle[']s interior along with the front end sheet metal, radiator, headlamps, grille and bumper." <http://www.american.com.au/conversions/right-hand-drive.aspx> (last visited January 31, 2011). It is unlikely that the maximum amount of MEA would have covered the cost of the conversion.

Mr. Ikins argues that he acted in accordance with embassy guidance, which made it clear to him that he should not ship a left-hand-drive car to Australia. In addition, Mr. Ikins notes that the costs for which he seeks reimbursement are probably less than the cost of shipping his POV to Australia. Nonetheless, the regulations are clear and do not permit reimbursement for all expenses occurring as a result of a move. For example, the regulations do not permit reimbursement for employees who "purchase appliances or equipment in lieu of conversion." The regulations do not permit the agency to reimburse an employee for costs that are not allowed under the regulations, or those incurred for reasons of personal taste or preference and not required because of the move. JTR C5310-E(2), (4); see also *Mary Sue Hay*, GSBICA 16104-RELO, 03-2 BCA ¶ 32,355. Unfortunately, despite the fact that Mr. Ikins may have been following embassy guidance, this guidance can not enlarge claimant's entitlements under statute or regulation. *Lou Ann McCracken*, CBCA 1505-RELO, 09-2 BCA ¶ 34,194; *Michael V. Lopez*, CBCA 511-RELO, 07-1 BCA ¶ 33,503. The regulations provide no basis to reimburse Mr. Ikins for his costs incurred when he registered his newly acquired vehicle.

JERI KAYLENE SOMERS
Board Judge