



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 16, 2014

CBCA 3616-RELO

In the Matter of SCOTT W. WALTERMIRE

Scott W. Waltermire, Moffett Field, CA, Claimant.

Gerald P. Dale, Financial Management Analyst, Department of the Air Force, Randolph Air Force Base, TX, appearing for Department of the Air Force.

GOODMAN, Board Judge.

Claimant, Scott W. Waltermire, is a civilian employee of the Department of Defense. He has requested that this Board review the agency's determination to deny him reimbursement of certain costs arising from a permanent change of station (PCS) move.

Factual Background

Claimant was issued PCS orders relocating him from Arnold Air Force Base, Tennessee, to the National Full-Scale Aerodynamic Facility (NFAC), Moffett Field, California, with an entrance on duty date of October 7, 2012. His PCS orders authorized sixty days of storage in transit (SIT) of household goods (HHG). Claimant's dependents were authorized delayed travel to allow claimant's children to complete the school year.

Claimant enrolled in the Guaranteed Home Sale/Defense National Relocation Program (DNRP) on April 12, 2013, for the sale of his home at his old duty station in Tennessee. On May 8, 2013, claimant submitted an extension request for travel and transportation allowances, for an additional year beyond the one year limitation set forth in Joint Travel Regulations (JTR) C5035-C and C5750-C. The request was based on claimant's belief that his new duty station, the NFAC, had been placed on the facility closure list effective October 1, 2014. He believed he needed this additional time in order to await the agency's decision whether or not to close the NFAC.

Defendant's house at his old duty station was sold in June 2013. His HHG were picked up on June 18, 2013, and delivered to the temporary storage facility at the new duty station on July 12, 2013, with the SIT period to expire September 10, 2013.

On August 29, 2013, claimant submitted a request to extend the period of SIT for sixty days beyond the initial sixty days previously authorized. The request was denied on September 3, 2013, as the agency stated that it did not expect a decision regarding the closure of the NFAC until May 2014.

Claimant purchased a new residence at his new duty station in December 2013.

Discussion

With regard to entitlement to SIT, the JTR read in relevant part:

C5190 STORAGE IN TRANSIT (SIT)

NOTE: For a PCS move made under an order with an effective date on/after 1 August 2011, the maximum total time limit for SIT is 150 days for CONUS-CONUS shipment and 180 days for OCONUS origin and/or destination HHG shipment (FTR §302-7.9).

A. General (FTR §302-7.107). SIT is short-term storage that is part of HHG transportation. SIT may be at any combination of the origin, destination, and en route locations per the Agency approval. SIT is not authorized for local HHG moves when no PCS exists.

B. Time Limitation

1. General. SIT (ICW authorized HHG transportation) should not exceed 60 days (CONUS-CONUS) and 90 days (to/from OCONUS) unless the employee requests (in writing) an additional period, NTE 90 days, that is authorized/approved by a Service/Defense AGENCY designated official. Under no circumstances may a Service/Agency authorize/approve SIT at GOV'T expense for CONUS to CONUS shipments exceeding a total of 150 days (CONUS) or 180 days (to/from OCONUS). If no additional storage is authorized/ approved, the employee is financially responsible for additional storage expense (FTR §302-7.9).

2. Justification (FTR §302-7.10). Acceptable justification for the additional 90-day SIT period (par. C5190-B1 and NOTE after par. C5190 heading) includes:

....

h. Other circumstances beyond the employee's control.

Claimant contends that his need for additional SIT was a circumstance beyond his control, as he was awaiting an agency decision with regard to closure of the NFAC. Claimant explains that "the costs associated with the HHG storage would not have occurred if I had not been forced into this situation due to the timelines associated with the agency's decision to close NFAC."

The agency states that claimant transferred to the new duty station in October 2012, and in November 2012, claimant requested and was granted an extension of temporary quarters subsistence expense (TQSE) based on the lack of adequate housing for his family and a statement by claimant that he would have housing available in December 2012. Thus, the agency believes that claimant had a clear intent to settle on a residence in December 2012. More than seven months passed before claimant received information that he contends led him to conclude that the NFAC might close in October 2014, and that information was not definite. Accordingly, the agency contends that claimant's delay in seeking permanent housing and need for additional SIT was claimant's personal choice and not caused by circumstances beyond his control.

While we understand that claimant reacted to the possibility that the NFAC might close in 2014, claimant was not required or instructed to postpone seeking permanent housing because of the uncertainty of the status of the NFAC. While claimant states his belief that he was a "good steward of taxpayer monies" and "trying to ensure funds were not wasted," he was not required to delay seeking permanent housing until the status of the

NFAC was determined.¹ Ultimately, he purchased a home in December 2013, after he learned that the NFAC would remain open through November 2015.

The agency's denial of an extension of SIT costs was within its discretion.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge

¹ Applicable travel regulations do not permit an employee additional relocation expenses while the employee defers seeking permanent housing because an agency decision might impact the employee's future assignment of a permanent duty station. *See, e.g., Charles E. Malone*, GSBCA 15837-TRAV, 03-1 BCA ¶ 32,123 (2002). An employee's purported well-meaning attempt to save government funds cannot serve as the basis for entitlement for reimbursement of travel costs when reimbursement was properly denied. *Lorna J. Laroe-Barber*, GSBCA 14890-TRAV, 99-2 BCA ¶ 30,484.