



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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February 12, 2014

CBCA 3495-RELO

In the Matter of LINDA CASHMAN

Linda Cashman, Mobile, AL, Claimant.

Russell W. Blount III, Realty Specialist, Real Estate Division, United States Army Corps of Engineers, Mobile, AL, appearing for Department of the Army.

**HYATT**, Board Judge.

Claimant, Linda Cashman, has requested the Board's review of the denial of her claim for reimbursement of real estate expenses incurred in connection with the sale of her home in Tuscaloosa, Alabama, following her transfer from a position with the Department of Veterans Affairs (VA) in Seattle, Washington to the Army Corps of Engineers (the Corps), in Mobile, Alabama.

Background

In March 2009, Ms. Cashman moved to Seattle, Washington, from Tuscaloosa, Alabama, to work for the VA. Her husband remained in Alabama, intending, upon his retirement, to move to Seattle to join her. Shortly after Ms. Cashman started work at the VA, her husband became seriously ill and was unable to move to Seattle. Ms. Cashman rented a residence in Seattle and looked for job openings in Alabama in order to be located closer to her husband. In July 2011, she received and accepted an offer to transfer to Mobile, Alabama to work for the Corps.

Ms. Cashman states that she had an agreement at the time she was hired by the Corps' Mobile District that she would be reimbursed for the allowable real estate expenses incurred in the sale of her house in Tuscaloosa. Her husband passed away soon after she returned to Alabama. Ms. Cashman then sold the residence in Tuscaloosa, expecting to be reimbursed for the real estate transaction expenses incurred in connection with that sale. In reliance on this expectation, she substantially reduced the sales price of that residence. When she submitted a voucher for reimbursement of her closing fees, the real estate division for the Mobile District determined that the Corps, by statute and regulation, could not reimburse her for those expenses.

The Mobile District acknowledges that it told Ms. Cashman that she would be reimbursed the appropriate expenses of selling her house in Tuscaloosa, and would like to honor that commitment. The funds have been obligated to cover this expense.

### Discussion

Generally, under 5 U.S.C. § 5724a(d) (2006), a government employee who transfers in the interest of the Government, to a new duty station within the continental United States, can be reimbursed for the costs of his or her relocation. These include certain costs associated with selling a home at the prior duty station and purchasing one at the new location. Reimbursements under this statutory provision are subject to the Federal Travel Regulation (FTR), a legislative rule that has the force and effect of law. The pertinent FTR provision restricts reimbursement of real estate transaction expenses to those incurred for the sale of the residence from which the employee regularly commuted to and from work on a daily basis and which was the residence at the time of official notification of the transfer. 41 CFR 302-11.100 (2011). The Joint Travel Regulations (JTR), which also apply in this case, set forth the same requirement. JTR C5750-B.4. The Board has interpreted these provisions on numerous occasions, recognizing that reimbursement of the costs of selling a home at the former duty station is conditioned upon a showing that the employee commuted to work on a daily basis from that residence. *E.g.*, *Connie J. Holliday*, CBCA 1866-RELO, 10-1 BCA ¶ 34,439; *Myles England*, CBCA 1244-RELO, 09-1 BCA ¶ 34,045 (2008); *Allan E. McLaughlin*, CBCA 691-RELO, 07-2 BCA ¶ 33,666. Since Ms. Cashman was not commuting on a daily basis from Tuscaloosa to Seattle, she is not eligible to be reimbursed by the Government for the expenses of selling her home in Tuscaloosa.

Although Ms. Cashman relied on the erroneous advice of the hiring office, incorrect advice provided by government officials cannot create or enlarge entitlements that are not authorized by statute or regulation. It is unfortunate that Ms. Cashman was misled concerning the payment of these expenses, but, nonetheless, the agency lacks authority to pay them. Similarly, the Board has no authority to “waive, modify, or depart from the

Government's official travel regulations for the benefit of any federal employee who is subject to them." *Myles England*, 09-1 BCA at 168,382 (citing *Charles T. Oliver*, GSBCA 16346-RELO, 04-1 BCA ¶ 32,614, at 161,405).

Decision

The claim is denied.

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CATHERINE B. HYATT  
Board Judge