



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 9, 2015

CBCA 4468-RELO

In the Matter of TYLER F. HORNER

Tyler F. Horner, APO Area Europe, Claimant.

Iлона M. Keller, Human Resources Specialist, Civilian Personnel Directorate, Office of the Deputy Chief of Staff, Department of the Army, APO Area Europe, appearing for Department of the Army.

VERGILIO, Board Judge.

The claimant is not entitled to recover a foreign transfer allowance (FTA) for himself or his family because the final departure to the new duty station was not from the post of assignment in the United States, a prerequisite for recovery.

The claimant, Tyler F. Horner, a civilian employee of the Department of the Army, was transferred from the continental United States to Europe with an entry on duty date of December 8, 2014. For the transfer he was authorized to receive for himself and his family a FTA. The FTA is an allowance under statute, 5 U.S.C. § 5924(2)(A) (2012), for extraordinary, necessary, and reasonable expenses, not otherwise compensated, incurred by an employee incident to establishing him or herself at any post of assignment in a foreign area, prior to departure for such post. A portion of the FTA is for pre-departure subsistence expenses (lodging, meals (including tips), laundry, cleaning and pressing) in temporary quarters for an employee and each member of the family for “up to ten days before final departure from a post in the United States to a post in a foreign area, beginning not more than 30 days after they have vacated residence quarters.” Department of State Standardized Regulations (DSSR) 241. However, recovery must be consistent with some explicit limitations: “The ten days may be anywhere in the U.S. . . . as long as employee or family

members have not begun travel on orders and final departure is from the U.S. post of assignment.” DSSR 242.3.c. The final departure must be from the post of assignment.

The claimant seeks reimbursement for ten days of pre-departure expenses incurred by the claimant and family members incurred within the United States. One aspect of the actions is here controlling. The final departure by the claimant and family members was from other than the post of assignment. By regulation and case law, *Jessica M. Koldoff*, CBCA 2656-RELO, 12-2 BCA ¶ 35,151, because the final departure was not from the post of assignment, recovery is not permitted.

The claimant’s travel authorization identified under the entry for “releasing official station and location, or actual residence,” his actual duty station and an alternate location, that from which the claimant and his family ultimately departed to the new assignment. That the claimant understood that he would be reimbursed for FTA expenses when the agency authorized the final departure from within the United States at an alternate location does not alter or invalidate the regulatory limitation. The claimant’s final departure was not from his post of assignment; therefore, recovery of FTA was not available under the regulation. Similarly, not relevant is the claimant’s assertion that he could have departed from the post of duty in the United States. Because the claimant did not depart from that location the regulations do not provide for recovery of FTA. The good faith and fiscal prudence of the claimant are not at issue. The Board and claimant are not free to rewrite the policy and requirements expressed in the regulations.

The agency properly concluded that the claimant cannot be reimbursed for pre-departure FTA expenses.

JOSEPH A. VERGILIO
Board Judge