



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 16, 2016

CBCA 5345-RELO

In the Matter of JAMES H. HARTMAN, JR.

James H. Hartman, Jr., Lackland Air Force Base, TX, Claimant.

Leticia C. Harris, Chief, Storage Management Section, Joint Personal Property Shipping Office - South Central, Department of the Air Force, Lackland Air Force Base, TX, appearing for Department of the Air Force.

BEARDSLEY, Board Judge.

Claimant, James H. Hartman, Jr., a civilian employee of the Department of the Air Force (Air Force), seeks the Board's review of the denial of his claim for the storage costs of his household goods beyond the authorized 150 days.

Factual Background

On December 17, 2014, the Air Force issued a travel authorization for claimant to make a permanent change of station from Pope Air Force Base, North Carolina to Joint Base San Antonio - Lackland, Texas. Claimant's household goods were picked up on December 29, 2014, and delivered to storage on or about January 6, 2015. Claimant moved on or about January 3, 2015. For reasons unrelated to this case, claimant was unable to purchase a house, and on February 20, 2015, he asked for an extension of the period during which the Government would pay for his storage. Claimant's orders authorized him a period of sixty days for storage in transit (SIT), but his origin transportation management officer (TMO) authorized ninety days. Thus, claimant's SIT period should have expired on March 7, 2015, but the parties accepted that it expired on April 6, 2015.

In February 2015, the Air Force Joint Personal Property Shipping Office - South Central (JPPSO) advised claimant:

If we do not receive the proper authority to extend your storage entitlement prior to the expiration date, the storage will be converted to your expense at midnight of the expiration date. Once the shipment is converted to your expense it cannot be converted back to govt. expense. Upon conversion to your expense, storage of your property will be subject to rules, regulations, charges, and liability based on warehouseman.

In early April 2015, claimant requested amended orders from his unit extending his SIT period. On April 3, 2015, claimant was again notified that the storage would convert to his expense on April 6, 2015. Claimant did not receive his amended orders by the expiration date of his SIT period, and the storage expenses were converted from the Government to claimant's responsibility on April 6, 2015. Claimant notified JPPSO on April 8, 2015, that he had received oral approval for a six-month extension of his SIT period, and he was awaiting the amended orders. Claimant's amended orders were issued on May 12, 2015, extending claimant's SIT period for an additional ninety days, to June 5, 2015, for a total of 150 days.¹ The amended orders noted that "[t]he maximum authorized by law is (150) days IAW [in accordance with] the JTR [Joint Travel Regulations], chapter 5, Part B C5322." On July 10, 2015, JPPSO received claimant's amended orders.

JPPSO initially denied payment for the additional sixty days² of storage costs because the storage costs had already been converted to claimant's responsibility, and the storage costs could not be attributed back to the Government due to the agreement between the transportation service providers (TSP) and the Government. In April 2016, JPPSO, however, devised a way to pay for the additional sixty days of storage authorized by the amended orders.

Claimant contends that he should not have to pay any storage costs because he would have moved his household goods on July 15, 2015, except that JPPSO mistakenly refused to

¹ The amendment amended the original order, which had only granted claimant sixty days of SIT.

² The Government agreed to and paid for the first ninety days of storage as a result of the TMO authorization, which differed from the original order for only sixty days of storage. Thus, the Government could only extend claimant's SIT period by sixty additional days.

pay his storage costs when it received his amended orders. Instead, JPPSO agreed to pay for the sixty-day extension several months later. Claimant's household goods remain in storage and the outstanding bill for the storage fees as of April 30, 2016, was approximately \$11,130. Claimant asserts that he cannot afford the bill to get the goods out of storage, and the storage costs continue to accrue.

Discussion

The Air Force is not responsible for the charges that accrued after the 150 days of SIT expired on June 5, 2015. The Federal Travel Regulation (FTR) deals with the time limits for temporary storage. It states:

What are the time limits for the temporary storage of authorized HHG [household goods] shipments?

(a) *For CONUS [continental United States] to CONUS shipments.* The initial period of temporary storage at Government expense may not exceed 60 days. You may request additional time, up to a maximum of 90 days, and you must make such a request prior to the expiration of the original 60 days. This extension must be approved by the agency official designated for such requests. Under no circumstances may temporary storage at Government expense for CONUS to CONUS shipments exceed a total of 150 days.

41 CFR 302-7.9 (2014) (FTR 302-7.9). Likewise, the JTR, which apply in this case, provide that for a permanent change of station (PCS) move "the maximum total time limit for SIT is 150 days for CONUS-CONUS shipment." JTR C5668. "SIT (ICW [in connection with] authorized HHG [household goods] transportation) should not exceed 60 days (CONUS-CONUS)." JTR C5670. "The employee must request (in writing) an additional SIT period, NTE [not to exceed] 90 days, that is authorized/approved by a Service/Defense Agency designated official." JTR C5672-B. These provisions allow household goods to be stored at Government expense for sixty days, and 150 days total in certain circumstances. "If additional storage is not authorized/approved, the employee is financially responsible for additional storage expense (FTR § 302-7.9)." JTR C5672-A.

Claimant asserts that the Air Force's failure to pay for the extended storage in July 2015, as authorized by his amended orders, constitutes a circumstance that justifies additional government payment for SIT. The FTR, however, states unequivocally that "under no circumstances" may temporary storage at government expense for CONUS to CONUS shipments exceed a total of 150 days. FTR 302-7.9. "It is well established that,

absent a specific provision in statute or regulation granting an exception under certain circumstances, neither an agency nor this Board has the 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." *Charles T. Oliver*, GSBCA 16346, 04-1 BCA ¶ 32,614, at 161,405 (citing *Judith B. Gross*, GSBCA 16265-RELO, 04-1 BCA ¶ 32,543 (2003); *David Mendoza*, GSBCA 15921-RELO, 03-1 BCA ¶ 32,082; *Thomas A. Riopelle*, GSBCA 15722-RELO, 02-1 BCA ¶ 31,820; *Daniel M. Coney*, GSBCA 15444-RELO, 01-2 BCA ¶ 31,500; *Tanya Cantrell*, GSBCA 15191-RELO, 00-1 BCA ¶ 30,894). Therefore, the Board has no authority to order the payment of additional storage costs beyond 150 days. *Anna M. Santana*, CBCA 3587-RELO, 14-1 BCA ¶ 35,651, at 174,558 (citing *James L. Thomas II*, CBCA 2035-RELO, 10-2 BCA ¶ 34,570).

The JTR similarly states that under no circumstances may a "Service/Agency authorize/approve" SIT at Government expense for shipments in the continental United States exceeding a total of 150 days. JTR C5674-B.1. The JTR recognizes a very limited exception to the rule by allowing the Per Diem, Travel and Transportation Allowance Committee (PDTATC) to "consider the merits of individual requests, on a case-by-case basis, for DoD [Department of Defense] civilian employees who have relocated and have had unforeseen circumstances beyond their control (e.g., a PCS that is interrupted by an en route TDY assignment)." JTR C5674-A. SIT beyond 150 days, however, cannot be authorized by this committee because suitable civilian housing is not available or other circumstances beyond the employee's control exist. JTR 5674-B.2.a. The only limited circumstance recognized by the Board under which PDTATC could extend SIT beyond the 150 days is when a PCS move is interrupted by a TDY assignment to a location such as Afghanistan or Iraq. See *James L. Thomas II*, 10-2 BCA ¶ 34,570 at 170,449 (citing *Stephen F. Fischer*, CBCA 875-RELO, 08-1 BCA ¶ 33,771, at 167,162). Such limited circumstances are not present in this case.

Decision

For the foregoing reasons, the Board affirms the Air Force's determination and denies the claim for any storage expenses after June 5, 2015.

ERICA S. BEARDSLEY
Board Judge