



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 26, 2016

CBCA 5414-RELO

In the Matter of AUSTIN W. JOHNSON

Austin W. Johnson, Minot, ND, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

DANIELS, Board Judge (Chairman).

Austin W. Johnson moved from Kansas to North Dakota, at the direction of the Department of the Army, and reported for duty in the latter state in May 2016. The Army authorized shipment of Mr. Johnson's household goods by government bill of lading (GBL). The employee chose to move his goods himself. The Army reimbursed him for many of the expenses he incurred in doing so – for boxes, moving pads and blankets, tarpaulins, fuel, towing truck mirrors, weight tickets, and labor to load and unload the goods. The agency did not reimburse him for other expenses he claims, however – the purchase of a trailer in which to carry the goods and a trailer hitch, tax on the trailer, the cost of reconfiguring the tail pipe of his vehicle to accommodate the hitch, and the cost of moving exercise equipment from his basement into the trailer. Mr. Johnson seeks our review of the agency's denial of each of these expenses.

By statute, when an agency transfers an employee from one permanent duty station to another in the in the interest of the Government, it must pay for the expenses of transporting his household goods. 5 U.S.C. § 5724(a)(2) (2012). The Federal Travel Regulation (FTR) establishes rules regarding this transportation. *Id.* § 5724(a) (referencing 5 U.S.C. § 5738). Under these rules, when an agency determines that shipment under a GBL (the actual expense method) is least costly to the Government, and an employee chooses to use other means of moving his goods, "reimbursement is limited to the actual cost incurred,

not to exceed what the Government would have incurred under the method selected by [his] agency.” 41 CFR 302-7.16 (2015); *see also* section 5656-C.2.b of the Department of Defense’s Joint Travel Regulations.

Mr. Johnson seizes on this last-quoted provision to justify the reimbursement under review. He notes that all the expenses he claims total less than the estimated cost of movement of the goods by GBL. Thus, he believes, he is entitled to the amounts in question.

The Army has agreed to pay for one of the items in dispute, the cost of moving Mr. Johnson’s exercise equipment into his trailer. The agency continues to maintain, however, that reimbursement of the other expenses in question would be improper.

The agency’s position is correct. Although the statute and the FTR provide for reimbursement of expenses, the term “expenses” as used in those laws is not as broad as the employee wishes. Expenses are costs for goods or services which are consumed, or used up, during the period in which money was spent on them. Capital expenditures made to acquire assets which will have a longer period of usefulness are not expenses. Paul H. Walgenbach, Norman E. Dittrich, & Ernest I. Hanson, *Principles of Accounting* (1976) at 14-15; Robert F. Meigs & Walter B. Meigs, *Financial Accounting* (6th ed. 1989) at 87. Consequently, United States tax law treats expenses differently from capital expenditures insofar as businesses are concerned; the former may be deducted as ordinary and necessary costs in the year in which money is spent, whereas the latter, having a useful life substantially beyond that year, are depreciable. *Woodward v. Commissioner of Internal Revenue*, 397 U.S. 572, 574-75 (1970). All of the costs in dispute in this case (other than those for movement of the exercise equipment) were for the purchase of assets which remain under Mr. Johnson’s ownership and continue to have useful life after the move has been concluded. The FTR does not authorize reimbursement for costs incurred for the purchase of such items. *Gene Kourtei*, CBCA 793-RELO, 08-1 BCA ¶ 33,724 (2007); *James R. Adams*, B-252629 (Aug. 17, 1993).¹

In other cases, employees have claimed that the Government should pay for items they purchased while on temporary duty – clothes which were needed due to lost luggage or

¹ Although the Government was required in another relocation case to pay for the purchase of a trailer hitch which was installed on an employee’s vehicle for the purpose of making a self-move, the hitch in that case was for the purpose of affixing a rented trailer to the vehicle and its cost was small. *Lawrence F. Fragomeli*, GSBICA 16086-RELO, 03-2 BCA ¶ 32,349. This holding is inapplicable to Mr. Johnson’s situation, for his trailer was purchased, not rented, and the cost of the hitch and modification of the vehicle was more than seven hundred dollars.

changes in travel plans, or furniture to make inexpensive, unfurnished long-term rental quarters habitable. In those cases, the decision was based on the same reasoning we apply here: appropriated funds may not be used to buy personal property which an employee will retain for his own use after the period of duty has concluded. *Panfilo Marquez*, GSBCA 15890-TRAV, 03-2 BCA ¶ 32,394; *Soching Tsai*, GSBCA 16058-TRAV, 03-2 BCA ¶ 32,333; *Thomas J. May*, GSBCA 15030-TRAV, 99-2 BCA ¶ 30,488.

The claim is denied.

STEPHEN M. DANIELS
Board Judge