



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 12, 2017

CBCA 5565-RELO

In the Matter of SIMEON A. MILTON

Simeon A. Milton, Montrose, CO, Claimant.

MaryLee Hensley, Financial Management Specialist, Travel Functional Area, Enterprise Solutions and Standards, Defense Finance and Accounting Service, Department of Defense, Indianapolis, IN, appearing for Department of Defense.

BEARDSLEY, Board Judge.

Claimant relocated to the United States Army Garrison in Hawaii for the Directorate of Public Works (DPW) in 2015. Claimant paid his relocation costs out of his own pocket and was later reimbursed for those expenses in 2016.¹ Claimant complains that taxes were withheld from his permanent change of station (PCS) expense reimbursement, and those taxes have not been reimbursed. The Defense Finance and Accounting Service (DFAS) indicated that a 25% federal withholding tax (FWT), a 6.2% Federal Insurance Contributions Act (FICA) tax and a 1.45% medicare tax were withheld from claimant's reimbursements. State and local taxes were not withheld. DFAS further indicated that Mr. Milton has not submitted a Relocation Income Tax Allowance (RIT allowance) reimbursement request to DFAS as required to obtain reimbursement of withheld taxes.

Claimant also asserts that he was not properly reimbursed for certain expenses, such as a certain unidentified hotel bill, but he does not provide details for which expenses he is seeking reimbursement or the amount of the expenses claimed. The Board ordered Mr.

¹ There is one travel voucher summary prepared on January 8, 2016; however, there is no date listed as to when the voucher was paid. All other travel vouchers indicated that they were paid in 2016.

Milton to identify for the Board any specific items (other than taxes) for which he is claiming reimbursement, but Mr. Milton did not respond to the Board. However, in an email to DFAS after Mr. Milton filed his claim with the Board, he stated that he had “received all reimbursements, [sic] my concern was the taxes taken out of these vouchers.”² DFAS has asserted that Mr. Milton has been properly reimbursed for all valid travel expenses (except taxes).

Discussion

The RIT allowance is “the payment to the employee to cover the difference between the withholding tax allowance (WTA), if any, and the actual tax liability incurred by the employee as a result of their taxable relocation benefits[.]”³ 41 CFR 302-17.1 (2015) (FTR 302-17.1). The RIT allowance is an authorized entitlement that reimburses eligible transferred civilian employees “for *substantially all* of” the Federal, state, and local income taxes incurred as a result of a PCS move. FTR 302-17.30; JTR 5922B.40; *see* 5 U.S.C. § 5724b(a) (2012).

Relocation benefits paid by the Government to employees whom it transfers from one permanent duty station to another are generally considered taxable income to the recipients. To cover the increased federal, state, and local tax liability resulting from receipt of the benefits, Congress has authorized agencies to pay an additional sum to transferred employees. This additional sum is referred to as a RIT allowance. The purpose of the RIT allowance is to offset the extra income taxes that employees are required to pay because they must declare certain relocation benefits as taxable income.

Charles W. Bell, CBCA 1980-RELO, 10-2 BCA ¶ 34,484, at 170,067 (citations omitted).

Claimant is required to submit a RIT allowance voucher to obtain reimbursement of taxes paid on his relocation expenses. Reimbursements are taxable in the calendar year that the employee receives the reimbursement, not the year the expense was incurred. FTR 302-

² In his email, Mr. Milton questions whether taxes would have been withheld from his reimbursement of expenses incurred on a travel credit card, rather than reimbursement of expenses paid by him out-of-pocket.

³ Claimant did not request a withholding tax allowance (WTA), and none was paid to him. The WTA is “the amount paid to the Federal IRS by the agency as withholding of income taxes for any taxable relocation allowance, reimbursement, or direct payment to a vendor.” FTR 302-17.1, -17.20.

17.11. In this case, claimant could not file his 2016 RIT allowance claim with DFAS until 2017. He first had to receive his civilian relocation travel W-2s showing travel entitlement to income disbursed to claimant by DFAS and the amount of taxes withheld, and he had to file his federal, state and local income tax returns. These W-2s are usually issued by January 31st of the year after the relocation expenses are reimbursed.⁴ *See* FTR 302-17.31.

Claimant has not claimed that he submitted his RIT allowance voucher and the agency failed to reimburse him. Instead, he seems to have received guidance that erroneously indicated that he was too late to receive the RIT allowance. This is not the case. At this point, it is incumbent on claimant to submit the proper paperwork to resolve this matter.

As for the other unspecified claims, Board Rule 401(c) defines the procedures that apply to the Board's review of "[c]laims for reimbursement of expenses incurred in connection with relocation to a new duty station." 48 CFR 6104.401(c) (2016). Board Rule 401(c) provides:

Any claim for entitlement to travel or relocation expenses must first be filed with the claimant's own department or agency (the agency). The agency shall initially adjudicate the claim. A claimant disagreeing with the agency's determination may request review of the claim by the Board. The burden is on the claimant to establish the timeliness of the claim, the liability of the agency, and the claimant's right to payment.

Other than for taxes withheld, claimant has offered no specifics regarding his claim for reimbursement. Moreover, there is no evidence that claimant first filed such a claim with DFAS or that DFAS has adjudicated such a claim. Because claimant did not first file his claim with DFAS, under Rule 401(c), the Board has no authority to resolve his claim.⁵ *William Gigante*, CBCA 4540-RELO, 15-1 BCA ¶ 36,051, at 176,065 (citing *Donald L. Baker*, CBCA 3439-RELO, 14-1 BCA ¶ 35,728, at 174,894); *Richard P. Fenner*, CBCA 3207-RELO, 13 BCA ¶ 35,341, at 173,461 (confirming that the Board lacks authority to adjudicate claims for relocation expenses that were not first filed with the claimant's own agency)). Moreover, claimant has not met his burden to establish the liability of the agency

⁴ If any of the vouchers were paid in 2015, the W-2s for those payments would have been received in January 2016. Thereafter, in 2016, claimant could have submitted his RIT allowance voucher for those taxes.

⁵ This is true also for Mr. Milton's question regarding whether taxes would be withheld from reimbursement of expenses incurred on a travel credit card.

or the claimant's right to payment. "It is well established that a claimant bears the burden of proving entitlement." *Michael D. Beasley*, CBCA 5262-RELO, 16-1 BCA ¶ 36,427, at 177,584 (citing *Janet D. Winn*, CBCA 4434-RELO, 15-1 BCA ¶ 35,978, at 175, 797); CBCA Rule 401(c).

Decision

For the foregoing reasons, the Board dismisses Mr. Milton's claims as premature.

ERICA S. BEARDSLEY
Board Judge