



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 2, 2017

CBCA 5697-RELO

In the Matter of DENISE M. SZELAG

Denise M. Szelag, Alexandria, VA, Claimant.

Nancy Wood, Traffic Management Specialist, Naval Supply Systems Command, Department of the Navy, Great Lakes, IL, appearing for Department of the Navy.

SOMERS, Board Judge.

Claimant, Denise M. Szelag, an employee with the Department of the Navy, asks us to review the agency's decision denying her claim for reimbursement of all of the costs incurred when she transported her household goods (HHG) during her permanent change of station (PCS) move. For the reasons set forth below, we deny Ms. Szelag's claim.

Background

Pursuant to PCS orders, claimant moved from Newport, Rhode Island, to Washington, D.C. The orders authorized the shipment of claimant's household goods with a commercial carrier using a government bill of lading. The orders did not authorize a commuted rate move.¹

On September 30, 2016, Ms. Szelag submitted a claim for reimbursement for \$3391.83, which, she asserts, is the amount she paid to transport 2990 pounds of HHG. On October 24, 2016, the agency rejected her claim initially because the Government had not yet completed its evaluation of the Government's constructive costs for shipping her goods. On December 13, 2016 (after the move had been completed), the agency informed claimant that

¹ The record does not indicate whether the orders have been amended to authorize a commuted rate move.

her “Personally Procured Move (PPM) application . . . had been received. . . . Upon receipt of your supporting documentation the Counseling Office will validate and finalize your application.”

On January 11, 2017, the agency contacted claimant and requested official weight tickets and official receipts of payment. On February 21, 2017, the agency advised claimant that she should have received counseling regarding pre-approval to personally move her property before the move. Nonetheless, the agency informed Ms. Szelag that she would be reimbursed in the amount of \$2294.03, the amount the agency determined represented the constructive cost for the move. During a conference call on March 13, 2017, the agency explained to claimant that the limitation on the amount to be reimbursed was unrelated to her failure to receive pre-approval to personally move her household goods.

Ms. Szelag appeals the agency’s decision to limit her reimbursement to \$2294.03, claiming that she is entitled to be reimbursed for the remaining \$1097.80 because the agency failed to counsel her about limits that might apply to her reimbursement. Ms. Szelag claims that had she received such counseling, she would have ensured that she remained within the reimbursement limit when she made the logistical arrangements for her move.

Discussion

As provided by statute, the Government pays relocation expenses when an employee transfers from one duty station to another in the interest of the Government. 5 U.S.C. § 5724 (2012). The Government will pay “the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking [the employee’s] household goods and personal effects not in excess of 18,000 pounds net weight.” 5 U.S.C. § 5724(a)(2). The statute also provides that an employee can be reimbursed “on a commuted basis” for the cost of shipping household goods. 5 U.S.C. § 5724(c). The Federal Travel Regulation (FTR), in its question and answer format, provides in pertinent part:

What methods of transporting and paying for the movement of HHG, PBP&E [professional books, papers and equipment] and temporary storage are authorized?

There are two authorized methods of transporting and paying for the movement of HHG, PBP&E and temporary storage. You agency will determine which of the following methods will be authorized.

(a) *Commutated rate system.* Under the commuted rate system, you assume total responsibility for arranging and paying for, at least the following services:

packing/unpacking, crating/uncrating, pickup/deliver, weighing, line-haul, drayage, and temporary storage of your HHG and PBP&E with a commercial HHG carrier or by renting self drive equipment for a do-it-yourself move.

41 CFR 302-7.14 (2016) (FTR 302-7.14). The regulation warns the employee that:

The disadvantages to using the commuted rate method for transporting HHG, PBP&E and temporary storage are that the . . . [c]ommutated rate method may not fully reimburse your out-of-pocket expenses.

41 CFR 302-7.15. The Joint Travel Regulations (JTR) govern the claims of Department of Defense civilian employees to the extent they are consistent with the FTR. *See Michael R. Lujan*, CBCA 4613-RELO, 15-1 BCA ¶ 36,096, at 176,235.

Claimant does not dispute the agency's calculation of the commuted rate reimbursement. Rather, claimant complains that a lack of communication, combined with the failure to train the agency representatives to provide adequate counseling to civilian employees prior to her move, resulted in her not having the information necessary to limit her expenses incurred. She argues that she should receive full reimbursement for her actual expenses because of this lack of counseling.

As we noted above, applicable regulations detail how certain costs incurred in transporting household goods should be calculated. The regulations limit payment for the transportation of household goods using the commuted rate method and specifically note that the commuted rate may not fully reimburse out-of-pocket expenses. As we have noted previously, where relevant statutes and regulations do not provide for payment for a particular purpose, an agency may not make such a payment. *Lauren R. Potempa*, CBCA 5136-RELO, 16-1 BCA ¶ 36,275, at 176,929 (citing *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990), and *Federal Crop Insurance Corp. v. Merrill*, 332 U.S. 380 (1947)). Using the commuted rate method to calculate reimbursement, the agency determined that Ms. Szlag is only entitled to be reimbursed \$2294.03. Nothing in the record indicates that the agency improperly calculated the amount to be reimbursed.

The failure of Government officials to adequately explain travel and relocation issues does not create a right to reimbursement in excess of statute and regulation. *David Kallman*, GSBCA 15671-RELO, 03-1 BCA ¶ 32,118 (2002). The fact that Ms. Szlag was not provided with advice does not provide a basis for the unauthorized payment of funds.

Decision

For the foregoing reasons, Ms. Szelag's claim is denied.

JERI KAYLENE SOMERS
Board Judge