



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 5, 2018

CBCA 5953-RELO

In the Matter of CANDIDO G. DELROSARIO, III

Candido G. Delrosario, III, Port Hueneme, CA, Claimant.

Sandra Castro Cain, Counsel, Naval Supply Systems Command Fleet Logistics Center, Department of the Navy, FPO Area Europe, appearing for Department of the Navy.

BEARDSLEY, Board Judge.

Claimant, Candido G. Delrosario, III, a civilian employee of the Department of the Navy, seeks the Board's review of the denial of his claim for the storage costs of his household goods beyond the authorized ninety days.

Factual Background

Claimant was an employee with the Naval Supply Systems Command Fleet Logistics Center in Rota, Spain. On July 22, 2017, claimant relocated to Port Hueneme, California, and reported to his new duty station at the Naval Sea Systems Command Logistics Center on July 24, 2017.

Upon arrival in California, claimant rented an apartment for his family and began to search for a permanent residence. His household goods arrived on August 24, 2017. Claimant's travel orders authorized the temporary storage of his household goods (HHG) for ninety days or until November 22, 2017. On October 25, 2017, claimant filed a request for an extension of his household goods storage. His rented apartment was not large enough to fit his eighteen crates of household goods.

Claimant alleged that a combination of factors, some beyond claimant's control, impeded claimant's ability to rent or purchase an apartment or house into which he could transfer his household goods from storage. Having his son evaluated in order to identify and/or obtain a referral to a school capable of handling his son's special needs, his and his wife's bronchitis, the high cost of rent, a "seller's market," and the limited inventory of 2000 square foot houses within his budget in Ventura County, California, all caused him to request an extension of the storage of his household goods.¹

The Navy denied claimant's request for an extension of household goods storage because claimant's reason for requesting an extension was a matter of convenience. Claimant had rented an apartment that was too small to fit his household goods, and claimant had "no intention of renting a house, unpacking everything, then moving to another house afterwards." The Navy did not find that the other reasons given by claimant, even in combination, justified an extension. Claimant's son's condition or his and his wife's bronchitis were not the serious illnesses contemplated by the Federal Travel Regulation (FTR) or Joint Travel Regulations (JTR) as a reason for granting an extension. Moreover, these issues did not impact claimant's decision to move into an apartment that could not hold his family's household goods. Also, the Navy determined that there was not a lack of suitable housing in the metropolitan area of Ventura County. The Navy also found that claimant had almost seven months to find suitable housing since he received his job offer on May 1, 2017, and that his inability to find suitable housing was due to lack of preparation prior to his move and lack of adequate planning.

Discussion

The FTR mandates agencies to fund the transportation and temporary storage of a transferred employee's HHG. 41 CFR 302-7.1(c) (2016) (FTR 302-7.1(c)). For employees returning to the continental United States (CONUS) from outside the continental United States (OCONUS), the agency will fund the temporary HHG storage for ninety days. FTR 302-7.9. The employee may request an extension of Government-funded storage up to an additional ninety days. The FTR identifies reasons justifying temporary storage beyond the initial limit, which include, among others: the non-availability of suitable housing, the serious illness of an employee, illness of a dependent, or other circumstances beyond the control of the employee. FTR 302-7.10. Justifications for extending the temporary storage

¹ Claimant raised for the first time in his brief that the Thomas fire and the holiday season additionally impeded his ability to find a house. The fire and the holiday season, however, occurred after the time period allowed for his household goods storage had expired.

of HHG, however, are not limited to those listed in the FTR. The JTR, which also apply in this case because claimant is a civilian employee of the Department of Defense, provide similar reasons to justify an extension of the HHG storage period. JTR 5672-C. In addition to the reasons listed in the FTR, additional storage may be authorized due to awaiting completion of a residence under construction or renovation, and “other validated circumstances beyond the employee’s control, which the Service/DoD agency determines to be in the Gov’t’s interest.” *Id.*

Both the FTR and the JTR reflect that the decision to grant an extension is within the discretion of the agency official designated for such determinations. *See* FTR 302-7.9; JTR 5672. We have held that “when regulations vest discretion in an agency with respect to the authorization of particular relocation expenses, the agency’s judgment will not be disturbed unless the determination is arbitrary, capricious, or clearly erroneous.” *William F. Brooks, Jr.*, CBCA 2595-RELO, 12-2 BCA ¶ 35,064, at 172,238 (citations omitted); *see also Scott W. Waltermire*, CBCA 3616-RELO, 14-1 BCA ¶ 35,614; *Joseph A. Soto*, GSBCA 14714-RELO, 99-1 BCA ¶ 30,157.

The Navy’s determination was not arbitrary, capricious, or clearly erroneous. Claimant made the choice to rent an apartment that was not large enough to fit his HHG. Claimant did not provide sufficient evidence that suitable housing was unavailable, especially given that he had more than four months to find a place. Moreover, addressing his son’s school needs and recovering from bronchitis, while time consuming, did not prevent claimant from finding a house or apartment to fit his HHG. Claimant’s personal choices led to his request for an extension of his HHG storage. Therefore, claimant’s request must be denied.

Decision

For the foregoing reasons, the Board affirms the Navy’s determination and denies the claim for an extension of temporary HHG storage.

Erica S. Beardsley

ERICA S. BEARDSLEY

Board Judge