



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

November 29, 2018

CBCA 6197-RELO

In the Matter of ANTHONY W. REED

Anthony W. Reed, Rocklin, CA, Claimant.

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

DRUMMOND, Board Judge.

In 2018, the Army Corps of Engineers (agency) issued first duty station permanent change of station (PCS) orders to Anthony W. Reed for travel from Middleville, Michigan, to Sacramento, California. The travel orders, among other things, authorized shipment of 18,000 pound of household goods (HHG) via government bill of lading (GBL). Mr. Reed shipped 28,520 pounds of HHG. The agency paid the carrier \$7668 for excess weight of 8,520 pounds after a downward adjustment of 2000 pounds for packing and materials. The agency required Mr. Reed to reimburse it for the costs incurred for the excess weight. The agency denied his request to reduce or waive the debt.

In his claim, Mr. Reed seeks relief from the debt due to his family circumstances and because he believes excessive packing materials and items belonging to another family were included in the weight overage.

Statute limits the Government's payment of an employee's moving expenses to 18,000 pounds net weight. 5 U.S.C. § 5724(a)(2) (2012). The Federal Travel Regulation (FTR) echoes this statutory ceiling on the net weight of HHG for which the Government will pay. 41 CFR 302-7.2 (2017) (FTR 302-7.2). The Joint Travel Regulations (JTR) are to the same effect. *See* JTR 054304. We have consistently held that the weight limit is firm and cannot be relaxed. *See Robert M. Valek*, CBCA 2957-RELO, 13 BCA ¶ 35,192 (2012). The

employee is responsible for reimbursing the Government for any excess charges due to an overweight shipment. See *Charles H. Noonan*, CBCA 2557-RELO, 12-1 BCA ¶ 34,929; *Susan L. White*, CBCA 1227-RELO, 09-1 BCA ¶ 34,021 (2008). In the absence of clear and convincing evidence of error or fraud, the agency determination of weight is binding and may not be overturned. *Sam Hankins*, CBCA 1309-RELO, 09-1 BCA ¶ 34,124, at 165,722.

Mr. Reed does not argue that the agency misapplied the regulations. Rather, he argues that he is entitled to an exception to the 18,000 pound limit because of his family circumstances. As support, he asserts that his family of nine naturally has more HHG than the average American family of five and therefore represents an exception to the 18,000 pound limit. Mr. Reed's argument is unavailing and lacks legal support. It is not the prerogative of the employee to substitute his judgment as to how the statute and implementing regulations should be applied. There simply is no exception to 18,000 pound limit, either express or implied. *Wendy J. Hankins*, GSBCA 16324-RELO, 04-2 BCA ¶ 32,686, at 161,739. Because the 18,000 pound limit is set by statute and regulations, neither the agency nor the Board has authority to waive it. *LeRoy Aaron*, GSBCA 14311-RELO, 98-2 BCA ¶ 29,762, at 147,496 (citing *Jack McGee*, B-199303 (Aug. 22, 1980)). Moreover, we do not have authority to waive a debt, or to review an agency decision to deny a request for a waiver. *Evan F. Meltzer*, CBCA 1536-RELO, 09-2 BCA ¶ 34,272, at 169,317. The authority to waive a debt belongs to the head of the agency from which the debt arose. *Richard Rosa*, CBCA 3293-RELO, 13 BCA ¶ 35,339, at 173,460.

Mr. Reed's argument that weight overage was attributable to excessive packing material and to items that belong to another family also is unavailing. Mr. Reed did not attribute any weight to these items; nor has he offered evidence that demonstrates an error or fraud, or otherwise would excuse his responsibility for the excess weight charges.

There are no circumstances shown here that would enable us to grant any relief. Accordingly, we affirm the agency's determination.

Decision

The Board denies the claim.

Jerome M. Drummond

JEROME M. DRUMMOND

Board Judge