



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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December 23, 2019

CBCA 6570-RELO

In the Matter of HILDA ALEXANDER

Hilda Alexander, Philadelphia, PA, Claimant.

Megan Heller, Office of the General Counsel, Department of Commerce, Washington, DC, appearing for Department of Commerce.

**SHERIDAN**, Board Judge.

Claimant, Hilda Alexander, an employee of the Department of Commerce, Bureau of Census (Census Bureau), contests the agency's denial of her request for an extension of temporary quarters subsistence expenses (TQSE) and reimbursement of certain expenses related to the storage of household goods (HHG) associated with her relocation.

In September 2017, claimant was hired as a supervisory survey technician in the Census Bureau's New York Regional Office. As part of this new position, the Census Bureau's Travel Management and Policy Branch (TMPB) authorized reimbursement for claimant's relocation expenses, including travel expenses, TQSE, temporary storage of HHG, and self-move expenses. This authorization was consistent with the Census Bureau's Relocation Entitlements Guide for Permanent Change of Duty Station (Relocation Entitlements Guide).

Claimant used one night of her TQSE in November 2017; she began using the remainder on March 11, 2018, meaning she was entitled to her TQSE until May 8, 2018 (inclusive). Claimant placed her belongings in a storage facility on November 18, 2017. Given that start date, claimant was entitled to reimbursement for storage fees paid from that date until January 16, 2018, sixty days later (inclusive).

## I. Reimbursements made to claimant

Claimant's first claims for reimbursement related to her relocation were received by the TMPB in May 2018. Her first voucher was for travel to her new duty station dated November 18, 2018, in the amount of \$697.43. After deducting for taxes, payment was made to Ms. Alexander in the amount of \$631.13 for her "en route" travel claim. At the same time, claimant submitted a claim for the first thirty-eight days of her TQSE, for the period of March 11 through April 16, 2018 (along with the single night in November 2017), in the amount of \$5530.96. After deducting for taxes, payment was made to claimant in the amount of \$4861.17 for TQSE.

On June 12, 2018, TMPB received another voucher from claimant in the amount of \$2,332.86 for storage expenses incurred from November 19 through December 19, 2017. After deducting for taxes, payment was made to claimant in the amount of \$2296.14. Finally, TMPB received a voucher from claimant in the amount of \$2705.78 on July 20, 2018, for additional TQSE reimbursement for the dates April 17 through May 8, 2018. After deducting for taxes, payment was made to claimant in the amount of \$2376.64 which, according to the Census Bureau, completed claimant's sixty-day TQSE entitlement.

## II. Claimant's request for extension of her TQSE

Claimant did not find permanent housing until June 20, 2018. Well after the expiration of her initial entitlement in May 2018, claimant contacted the TMPB on July 30, 2018, to request a fifteen day<sup>1</sup> extension of TQSE, citing her inability to locate a permanent residence. Claimant stated that with her work responsibilities, she did not have time to look for a permanent residence. On August 9, 2018, claimant submitted another request for an extension of her TQSE benefits for May 9 through June 20, 2018. In support of her request, claimant stated that she was hospitalized for "cardiac care after an episode" between the dates of June 19 through June 23, 2018.<sup>2</sup> Claimant's request to the agency also stated that compelling reasons for the extension were her inability to locate a permanent residence because of a "lack of affordable rental housing units, the 'inadequate' condition of a housing

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<sup>1</sup> While in the caption of the July 20, 2018, request claimant indicated fifteen days was being requested, in the body of the request claimant requested a sixty-day extension.

<sup>2</sup> Claimant states that the hospitalization established "the inability for me to timely request the extension for the 42 days," but fails to include any records associated with the hospitalization.

unit promised, and the excessive broker fees.”<sup>3</sup> Claimant also asserts that while she earlier secured a permanent housing unit in the Bronx, the lease agreement “fell through.”<sup>4</sup> On September 12, 2018, claimant submitted another extension request which the agency denied citing Federal Travel Regulation (FTR) 302-6.111 (41 CFR 302-6.111 (2017)).

Claimant submitted two claims to TMPB on November 16, 2018. One claim sought \$1048.50 for moving expenses incurred from November 17 through December 18, 2018,<sup>5</sup> and the other claimed \$360 in storage fees. TMPB sought additional information from claimant on these claims, but, ultimately, the claims were denied. These matters were appealed to the Board.

### III. The Census Bureau’s denial of the claims

The Census Bureau asserts claimant was reimbursed for travel to her new duty station and for her use of temporary quarters for the dates March 11 through May 8, 2018, a total of fifty-eight days.<sup>6</sup> The Census Bureau takes the position that claimant’s appeal should be denied because she was reimbursed for all of the expenses she was entitled to for relocation in connection with her transfer to the New York area. TMPB denied Ms. Alexander’s claim, citing to FTR 302-6.111, which provides that, even if an additional authorized period of TQSE entitlement is granted, an employee will not be reimbursed for any of the expenses incurred during the unauthorized period. The Census Bureau also posits that claimant failed to seek an extension of her TQSE in a timely manner and failed to provide any concrete evidence to demonstrate why her request for an extension was so significantly delayed. Regarding reimbursement for the storage of HHG incident to a self-move, the agency asserts that it denied claimant’s request for storage expenses after an “inquiry to the General Services Administration (GSA) indicated that storage expenses could not be claimed as part of a move when an employee was engaging in a self-move.”

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<sup>3</sup> Claimant provided no compelling evidence to support that these “reasons” for the requested extension actually existed, such as receipts for incurred costs.

<sup>4</sup> Claimant provided no compelling evidence as to the facts surrounding this purported event, e.g., receipts for costs allegedly incurred.

<sup>5</sup> Given that those dates post-dated receipt of the voucher, they were clearly incorrect. Furthermore, the receipts attached to the claim started on January 19, 2018, after the sixty-day period during which Ms. Alexander was entitled to reimbursement for storage fees.

<sup>6</sup> This statement differs from a statement in which the Census Bureau represents it has paid claimant the full sixty days of entitlement to TQSE.

Consistent with the FTR, TQSE allowances are provided to government employees solely within the discretion of their agencies. 41 CFR 302-101; *see also Peter E. Godfrey*, CBCA 4940-RELO, 16-1 BCA ¶ 32,250, at 176,860; *Christopher W. Harding*, CBCA 4542-RELO, 15-1 BCA ¶ 35,990, at 175,828; *Thomas G. Tucker, Jr.*, GSBCA 16682-RELO, 06-1 BCA ¶ 33,168, at 164,356 (2005).

The Board will not disturb an agency's discretionary decision unless we are convinced that its judgments are "arbitrary, capricious, or clearly erroneous." *Brian J. Ebel*, CBCA 5219-TRAV, 15-1 BCA ¶ 36,082, at 176,179 (quoting *William T. Orders*, GSBCA 16095-RELO, 03-2 BCA ¶ 32,389, at 160,290). "The agency must exercise [its] discretion reasonably and set forth the reasons for its determination." *Id.*

#### I. Claimant's request for an extension of TQSE

We note at the outset that a delay in an extension request alone is not a sufficient reason for the agency to deny a claimant's request for an extension. *See Vanessa A. Deal*, GSBCA 15481-RELO, 01-1 BCA ¶ 31,407, at 155,133.<sup>7</sup>

In order to warrant an extension of TQSE reimbursement, the recipient must demonstrate to the agency a "compelling reason" justifying the extension, meaning an event that is beyond his or her control and is acceptable to the agency. The FTR describes instances of a "compelling reason" which include, but are not limited to:

- (a) Delivery of your household goods to your new residence is delayed due to strikes, customs clearance, hazardous weather, fires, floods or other acts of God, or similar events.
- (b) You cannot occupy your new permanent residence because of unanticipated problems (e.g., delay in settlement on the new residence, or short-term delay in construction of the residence).
- (c) You are unable to locate to a permanent residence which is adequate for your family's needs because of housing conditions at your new official station.

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<sup>7</sup> An earlier version of the FTR required that the "compelling reason" for extension of the TQSE period occur *during* the initial period of eligibility, yet "this old regulation did not limit the time during which a request for an extension could be made." *Deal*, 01-1 BCA ¶ 31,407, at 155,133 n.1 (citing 41 CFR 302-5.2(a)(2) (1996)).

- (d) Sudden illness, injury, your death or the death of your immediate family member; or
- (e) Similar reasons.

41 CFR 302-6.105.

No compelling evidence was provided showing that claimant encountered conditions that justified an extension. While claimant made various assertions that such conditions existed, she failed to provide evidence to support her assertions. For instance, claimant's hospitalization does not support her request for an extension of TQSE because her hospitalization did not occur until long after the TQSE had expired.

## II. Claimant's request for additional HHG storage fees

Regarding time limits for the temporary storage of authorized HHG shipments, the FTR provides:

*For CONUS [Continental United States] to CONUS shipments.* The initial period of temporary storage at Government expense may not exceed 60 days. You may request additional time, up to a maximum of 90 days, and you must make such a request prior to the expiration of the original 60 days. This extension must be approved by the agency official designated for such requests. Under no circumstances may temporary storage at Government expense for CONUS to CONUS shipments exceed a total of 150 days.

41 CFR 302-7.9(a).

Valid reasons for justifying additional storage beyond the initial sixty day limits include, but are not limited to:

- (a) An intervening temporary duty or long-term training assignment;
- (b) Non-availability of suitable housing;
- (c) Completion of residence under construction;
- (d) Serious illness of employee or illness or death of a dependent; or
- (e) Strikes, acts of God, or other circumstances beyond the control of the employee.

41 CFR 302-7.10.

Claimant mislabeled storage of HHG as a “miscellaneous expense.”<sup>8</sup> The FTR describes miscellaneous expenses as “[c]osts associated with relocating that are not covered by other relocation benefits detailed in Chapter 302.” 41 CFR 302-16.2(a). Examples of such expenses are listed in FAR 302-16.2(b). Storage of HHG is not one.

Just as claimant provided no compelling reason for a TQSE extension, she has provided no compelling grounds justifying additional storage fees.

### III. Claimant’s request for lease breaking fees

The Census Bureau’s Relocation Entitlements Guide authorizes reimbursement of expenses incurred due to lease breaking if the following conditions are met:

1. Employee must give prompt notice of lease termination in accordance with leasing agreement.
2. The lease must be in the employee’s name; if someone else’s name is on the lease the amount to be reimbursed will be divided equally, and the employee will be reimbursed their share.
3. Terms of lease provide for payment (copy of lease agreement required).
4. Evidence of payment is required (receipt or canceled check).

Regarding claimant’s original request that she be reimbursed lease breaking expenses, her written statement and email attachments are insufficient to show that she meets the conditions for entitlement set forth in the guide. In her response claimant now states she does not seek lease breaking fees because she has not paid such fees.

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<sup>8</sup> In addition to travel expenses and the cost of temporary storage and use of temporary quarters, the agency may authorize reimbursement for “miscellaneous expenses.”

#### IV. Conclusion

As earlier noted, the Census Bureau represents that claimant was reimbursed for travel to her new duty station and for her use of temporary quarters for the dates March 11 through May 8, 2018, a total of fifty-eight days. It is unclear from the record whether these fifty-eight days included the one day at the beginning of the move, but in any event, the Census Bureau should take steps to ensure that claimant receives reimbursement for the full sixty days provided for in her orders. The record is also unclear as to whether claimant received full payment for HHG storage. The Census Bureau should take steps to verify claimant has received full payment for HHG storage to which she is entitled.

Based on the examination of the facts, claimant has provided no compelling justification that she is entitled to reimbursement of costs beyond the days authorized in her orders. The Census Bureau acted reasonably in denying her claim.

#### Decision

The claim is denied.

*Patricia J. Sheridan*

PATRICIA J. SHERIDAN

Board Judge