



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 24, 2020

CBCA 6778-RELO

In the Matter of MIGUEL A. CORREA

Mark J. Berkowitz of Mark J. Berkowitz, P.A., Fort Lauderdale, FL, appearing for Claimant.

Rick W. Tague, Office of the Staff Judge Advocate, United States Army Garrison Japan, APO Area Pacific, appearing for Department of the Army.

SULLIVAN, Board Judge.

Claimant, Miguel A. Correa, seeks review of the denial by the U.S. Army Installation Management Command (IMCOM or agency) of his request for reimbursement of costs incurred for property management services. Because reimbursement of such costs is discretionary and claimant failed to show that someone with the necessary authority approved reimbursement, we deny the claim.

Background

Claimant seeks reimbursement for property management services incurred as a result of a change of permanent duty station from Florida to Japan. In February 2019, claimant received two authorizations, the first of which did not mention property management services. The second authorization, issued on February 20, 2019, is internally contradictory. In the “Other Authorized Expenses” field – field sixteen on the form – the approving official did not check the box to authorize reimbursement of property management services costs. On the final page of the form, however, there is a field – numbered 28 – for “Remarks or Other Authorizations,” which includes the statement “[p]er email dated 15 Feb 2019 from CPAC [Civilian Personnel Advisory Center], employee is entitled to Proper [sic] Management Service.”

The agency denied claimant's request for reimbursement. In an exchange of emails dated December 12, 2019, an agency human resources officer informed claimant that "property management services is a discretionary allowance" that "has to be approved by command," and is not an automatic entitlement. Claimant responded that those services "were approved as part of my entitlements package" and a "condition of my acceptance of the job offer." Claimant further stated he "would not have accepted the job" if property management services reimbursement was not part of the offer.

Claimant alleges that "approval of the Petitioner's claim for Property Management Services, was specifically confirmed . . . up the chain of command," but only submitted the authorization forms and December 2019 email chain as evidence of this authorization. The agency disputes this contention. The deputy to the garrison commander, the official who signed the February 20, 2019, authorization form, stated in a declaration attached to the agency's response that he did not see the language regarding property management services on the authorization when he signed it and, further, he was not delegated authority to approve that reimbursement.

Discussion

The Federal Travel Regulation (FTR) states that "[p]roperty management services' are programs provided by private companies for a fee, which help an employee to manage his/her residence at the old official station as a rental property." 41 CFR 302-15.1 (2018). Agencies may authorize reimbursement for the cost of those services at their discretion, provided the employee meets certain criteria. *See* JTR 054602-A.¹ Agencies are not required to reimburse these costs. *Miriam E. Bolaffi*, CBCA 4029-RELO, 15-1 BCA ¶ 35,962.

For civilian DOD employees transferring to a foreign duty station, a request for approval for reimbursement of these costs must proceed through the "Secretarial Process." JTR 054603. The secretarial process "consists of action by a high-level official within DOD or by his or her designated representative." *Bolaffi* (quoting *William Meyers*, GSBCA 16702-RELO, 06-1 BCA ¶ 33,150 (2005)).

Assuming claimant satisfied all other criteria for reimbursement of property management services, that reimbursement was not approved through the required secretarial process. The official who signed the February 20, 2019, authorization form disclaimed knowledge of the inclusion of property management costs or having the authority to

¹ As a civilian employee of the Department of Defense (DOD), claimant is subject to the requirements of the Joint Travel Regulations (JTR).

authorize reimbursement. Moreover, the authority to approve relocation services, of which property management services are a part, is not delegated to the Deputy Garrison Commander. *See* IMCOM Civilian Human Resources Delegation Authorities Matrix, version 02-2018, at 18 (#69) (Oct. 23, 2018). Even if the official had approved property management services, the agency would not be bound by that approval. *Flordeniza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634.

Claimants bear the burden of proof that they are entitled to reimbursement. *Lonnie G. Jabour*, CBCA 5664-RELO, 17-1 BCA ¶ 36,765. Claimant asserts reimbursement was approved in a series of emails up the chain of command, but failed to produce evidence of this approval beyond the February 20, 2019, authorization. Without more, claimant has not shown that he obtained the necessary approvals.

Finally, claimant's assertion that he has "established the four elements of a contract" has no bearing. Reimbursement of these costs is a discretionary allowance, not pursuant to a contract.

Decision

The claim is denied.

Marian E. Sullivan
MARIAN E. SULLIVAN
Board Judge