



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

March 12, 2021

CBCA 7030-RELO

In the Matter of HOLLY W.

Holly W., Claimant.

Tracey Z. Taylor, Assistant Center Counsel, Humphreys Engineer Support Activity, United States Army Corps of Engineers, Alexandria, VA, appearing for Department of the Army.

SHERIDAN, Board Judge.

In this matter, claimant received increased reimbursement because the temporary storage-in-transit (SIT) of her household goods (HHG) was extended. She is responsible for paying the taxes associated with that reimbursement, absent a waiver of that debt by the agency.

Background

Claimant was issued travel authorization pursuant to a relocation for a position in the United States Army Corps of Engineers (USACE or agency). The travel orders authorized HHG SIT.

Due to the COVID-19 pandemic, the Department of Defense (DOD) placed travel restrictions on civilian personnel, and on May 13, 2020, claimant's move was held in place. A new permanent change of station (PCS) date was set, and an extension of claimant's HHG SIT was granted. The total cost of moving and storing claimant's HHG was \$17,063.04 and, of that amount, claimant owed \$4812.65 in federal income tax withholding (FITW), \$1356.29 in Federal Insurance Contributions Act (FICA) taxes, and \$317.20 in Medicare taxes. Claimant was sent a debt notification letter from the USACE Finance Center (UFC) on December 18, 2020, stating:

USACE travelers must pay taxes on relocation expense reimbursements, such as shipment of HHG, storage-in-transit (SIT) and non-temporary storage charges (NTS). The USACE Finance Center paid these costs directly to the vendor; you are now responsible for repaying \$1,673.49 (see enclosed bill #6507368), which is your share of the FITW, FICA[,] and Medicare as applicable.

The debt notification letter contained an attachment, “Collection of Your Debt,” explaining that there was a process claimant could follow to dispute, seek waiver of, and obtain a hearing on the debt through the DOD’s Deputy Chief Management Officer (DCMO). The letter also informed claimant:

If you are a civilian employee and your debt originates from an overpayment of (1) a reimbursement of expenses incurred while on official temporary duty travel or (2) a reimbursement of expenses incurred in connection with relocation to a new duty station, you may appeal the UFC’s assessment of your debt to the CBCA [Civilian Board of Contract Appeals]. 31 U.S.C. [§] 3702(a)(3) [(2018)].

Claimant paid the full amount of the debt, did not seek waiver of the debt through the DCMO, but appealed to the CBCA, stating:

I guess I am just asking to pay the pre-[COVID] reasonable amount of SIT costs. Also, could [you] look at the \$1090.47 for the DOD stop movement. Since the stop movement was not at my request, but of the government’s . . . due to [COVID], do you think there [are] some CARES ACT [Coronavirus Aid, Relief, and Economic Security Act¹] funds out there that could cover these costs since [they were] completely out of my control?

Discussion

The agency asserts that it lacks the authority to forgive or waive claimant’s debt. That is not completely accurate. Although it is true that the CBCA lacks the authority to forgive or waive an employee’s debt,² the agency, if asked, can exercise its discretion to waive a debt. Pursuant to 5 U.S.C. § 5584 (2018), the heads of Executive agencies have full

¹ Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020).

² The Board’s authority extends only to the determination of the validity of underlying claims involving reimbursement of travel and relocation expenses. *See* 31 U.S.C. § 3702.

authority to forgive or waive the overpayment of debts owed to their respective agency regardless of the amount of the debt. An authorized official may waive recovery of overpayments resulting from erroneous payment to an employee of (1) pay or allowances or (2) travel, transportation, or relocation expenses and allowances. Use of the waiver authority is discretionary on the part of the authorized official. The head of each Executive agency is responsible for establishing waiver policies and standards and determining levels of approval. Claimant was apprised of these rights, but elected not to pursue them.

With respect to the issue CBCA has authority to address, whether the underlying reasons for the agency's debt creation are valid, to the extent claimant's appeal to the CBCA seeks additional reimbursement for the relocation, we lack authority to reimburse for anything other than the actual cost of storing claimant's HHG. *See* Joint Travel Regulation (JTR) 054307 (SIT reimbursement is limited to the employee's actual storage costs). An extension of the SIT time period was properly authorized for unforeseen circumstances beyond the employee's control resulting from the COVID-19 national emergency. JTR 054307-A.2(g), -A.3; *see also* GSA Bulletin FTR (Federal Travel Regulation) 20-06 (Apr. 17, 2020). Claimant's tax burden is calculated based on the amount reimbursed, and cannot be waived by the agency. *See* 41 CFR 302 (2019) (FTR 302) (which makes taxable, among other things, the cost of storage of HHG within the continental United States); *see also Heather E. McBride*, CBCA 6373-RELO, 19-1 BCA ¶ 37,346. Claimant has not alleged that the agency's calculation was improper.

Finally, the Board is unaware of any authority in the CARES Act that makes funds available for reimbursement of a federal employee for expenses incurred because of travel or relocation delayed as a result of COVID-19. *See* Pub. L. No. 116-136.

Although a lack of proof precludes a merits decision in claimant's favor, the Board notes that if the agency paid too much FITW, claimant may get a refund when she files her next federal tax return. Further, after claimant files her next federal tax return, she can submit a Relocation Income Tax Allowance (RITA) claim to recover "the actual tax liability incurred by the employee as a result of [her/his] taxable relocation benefits." FTR 302-17.1.

Decision

The claim is denied.

Patricia J. Sheridan
PATRICIA J. SHERIDAN
Board Judge