



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 2, 2024

CBCA 8175-RELO

In the Matter of DAVID C.

W.D. Allen of Watson & Associates, LLC, Denver, CO, counsel for Claimant.

Marc E. Mandel, Office of the General Counsel, Federal Bureau of Investigation, Department of Justice, Washington, DC, appearing for the Department of Justice.

LESTER, Board Judge.

Claimant disputes a determination by his former employer, the Federal Bureau of Investigation (FBI or the agency), that he must return \$60,457.03 that the agency had paid to cover the costs of claimant's relocation to a new permanent duty station (PDS). The agency maintains that, because claimant failed to satisfy his obligations under a continuing service agreement (CSA) to remain at his new PDS for at least twelve months, claimant is not entitled to relocation expenses. Claimant asks the Board to review the agency's denial of his request for waiver of the debt or to prorate the debt to account for the fact that claimant served ten of the required twelve months. Because claimant has failed to satisfy his burden of proving that he resigned from his position because of reasons beyond his control, we deny the claim based upon the current record.

This decision does not preclude claimant, if he is able to obtain additional documentation from medical professionals tying his mental health issues to his early departure from his PDS, from again approaching the agency to renew his request that the agency exercise its discretion to waive recoupment of the relocation costs. Although claimant did not disclose or request an accommodation for depression or anxiety before resigning from the FBI, he now asserts, albeit without providing any specific detail in support, that mental health issues affected his ability to remain at his job. The Board lacks authority to direct the agency to exercise its discretion in any particular manner, but, if

claimant is able to obtain and submit to the agency medical documentation that the agency finds compelling, the agency retains the discretion to excuse claimant's early departure.

Background

On March 17, 2021, the FBI issued a transfer order to claimant (a GS-09 Intelligence Analyst) providing that, following completion of training in Quantico, Virginia (scheduled to conclude on April 25, 2021), claimant would be transferred from his original continental United States (CONUS) PDS to a new CONUS PDS approximately 200 miles away. As set forth in the CSA that claimant signed as part of the transfer, claimant was authorized an allowance for relocation expenses to his new PDS in exchange for his continued service to the Government for twelve months following the effective date of transfer. The CSA provided that "[i]t is understood that the effective date of transfer is the day you report for duty at the new duty station." Claimant also agreed in the CSA that, unless he ended his service for "reasons beyond [his] control and acceptable to the FBI," he would be "obligated to refund the Government all costs incurred on [his] behalf for travel and related expenses to [his] transfer as described in the Federal Travel Regulation" (FTR).

The record does not indicate the precise date upon which claimant reported for duty at the new PDS, but, based upon the parties' representations, it is clear that he reported there sometime in late May or early June 2021. Claimant submitted a request for reimbursement of various relocation expenses, including approximately \$7000 for the transport of claimant's household goods (HHG) from his old PDS to the new PDS area; just under \$45,000 to cover the costs of claimant's participation in a home sale program through which he sold his old PDS residence as part of his relocation to the new PDS; approximately \$8000 in house hunting expenses; and just under \$400 as a Relocation Income Tax Allowance (RITA). In total, the FBI reimbursed claimant \$60,457.03 in relocation expenses.

Claimant resigned from the FBI on April 1, 2022, approximately two months before he would have fulfilled his twelve-month CSA service commitment.

On or about March 26, 2024, claimant received a debt collection notice from the FBI's Accounts Receivable Unit demanding that, because claimant had not fulfilled his twelve-month commitment to work at his new PDS, claimant was required to reimburse the FBI for the \$60,457.03 in relocation expenses that the FBI had paid.

By email dated April 10, 2024, claimant responded to the notice and requested a "waiver of partial debt reduction" to account for the fact that he had fulfilled ten months of his twelve-month service obligation before resigning. In his response, he "acknowledge[d] the gravity of breaking this agreement and t[ook] full responsibility for [his] actions." Nevertheless, he explained that, although initially assigned to a white-collar crime

investigation squad upon his arrival at his new PDS, he was soon reassigned as a result of an office reorganization to a cyber squad, which involved an area of investigation in which he felt underqualified and for which he believes there was inadequate available training. He alleged that, after he spoke with his supervisor about his feelings of “imposter syndrome”¹ and his need for better cyber training, his supervisor suggested that he just needed more time to learn on the job and become more comfortable in this investigative area. Claimant stated that he consequently “began experiencing heightened anxiety and feelings of isolation in the workplace, ultimately leading to [his] decision to depart in order to prioritize [his] mental well-being.” He indicated that, “[d]uring [his] exit interview with [a higher-level supervisor], [that supervisor] asked why [claimant] had not [previously] sought him out” if he was feeling overwhelmed “and at the time, [claimant] did not have a good answer for him—only that [claimant] felt ashamed about [his] feelings and was hesitant to go beyond [his first-level] supervisor.”

In identifying reasons that he was unable to repay the full amount of the debt being sought, claimant also explained that, since his departure from the FBI, he and his wife had had a baby and the associated expenses made it extremely difficult to repay the relocation expenses.

By letter dated May 14, 2024, the FBI informed the claimant that his waiver request was denied, finding “no basis to waive the debt.” The agency also explained that federal regulations prohibited it from prorating the debt owed.

On August 12, 2024, claimant submitted his claim to the Board, challenging the FBI’s decision. In his submission, he alleged reasons for his early departure that the FBI believes are inconsistent with his April 10, 2024, explanation. In his submission to the Board, claimant alleged that the “[p]roximate cause of [his] departure” from the FBI was that he “suffered in[-]the[-]line[-]of[-]duty trauma within the supervisor-employee work environment.” Claimant provided a declaration with his submission in which he averred that his “anxiety and/or trauma” resulted from his “experience with a supervisor within the FBI,”

¹ “Imposter syndrome . . . is a behavioral health phenomenon described as self-doubt of intellect, skills, or accomplishments among high-achieving individuals. These individuals cannot internalize their success and subsequently experience pervasive feelings of self-doubt, anxiety, depression, and/or apprehension of being exposed as a fraud in their work, despite verifiable and objective evidence of their successfulness.” Martin R. Huecker, Jacob Shreffler, Patrick T. McKeny & David Davis, *Imposter Phenomenon* (StatPearls Publishing, LLC, last updated July 31, 2023) (available at <https://www.ncbi.nlm.nih.gov/books/NBK585058/#:~:text=Introduction,accomplishment%20among%20high%2Dachieving%20individuals> (last visited Dec. 2, 2024)).

but he did not otherwise explain what the trauma was or its cause. He argued that he should receive a repayment waiver because the FBI “controls the work environment and should not benefit from being able to construct an unhealthy environment.” In the alternative, he asserted that, at a minimum, the FBI should prorate his repayment obligation because he “**did** substantially complete the 12-month assignment by completing more than or about 10 months of the 12 months of the assignment.” Claimant also informed the Board that he had submitted a Freedom of Information Act (FOIA) request to the FBI, pursuant to 5 U.S.C. § 552 (2018), seeking information about his work at the new PDS and possibly prior to his time there, and he requested that the Board authorize “discovery tools of interrogatories, deposition, and production of records.”

In a subsequent submission to the Board, claimant indicated that, beginning in November 2022, he had “entered into professional care” with a counseling service through which, as of late September 2024, he had attended fifty-one counseling sessions. He provided the Board with a declaration from his counselor’s supervisor, who reported that, based upon reports in claimant’s counseling service file, claimant had suffered from depression and anxiety.

On September 26, 2024, claimant requested an enlargement of time to and including November 26, 2024, to submit additional information to the Board. The Board issued an order granting that request, and claimant, on November 25, filed a new five-page declaration describing his time at his new PDS and alleging poor management by his cyber squad supervisor, who caused claimant to leave “meetings extremely discouraged and disheartened.” Claimant represented that he had repeatedly told his first-line supervisor that he did not feel qualified for his job and that, instead of repeatedly dismissing his concerns, the supervisor should have realized that claimant was depressed and taken action to help him. Claimant also asserts that others within the agency knew of his first-line supervisor’s poor behavior in past instances of conflict with other employees but did nothing to intervene in claimant’s situation. Nevertheless, claimant does not allege that he claimed a disability during his time of employment or that he requested an accommodation.

Discussion

I. The Agency’s Request for Dismissal

The FBI asks that we dismiss this matter because we lack authority to address it, arguing that “Claimant has not challenged the expenses in this matter but rather has asked the Board to permit Claimant to withdraw from his [CSA] for personal reasons.” In support, the FBI cites to the Board’s recent decision in *Michael M.*, CBCA 8230-RELO, 24-1 BCA ¶ 38,684, at 188,053, in which the Board determined that it lacked authority to review a challenge to an agency’s denial of a request for early release from a tour of duty, which

would violate the length-of-service requirements of the claimant's transportation agreement (TA). The claimant there did "not claim to have incurred expenses for official duty travel or relocation," and the Board held that, with no expenses at issue, it lacked "authority to review the agency's denial of claimant's request for release from his TA." *Id.*

The situation here differs from *Michael M.* While relocation expenses were not at issue in *Michael M.*, they are here. The FBI in this case has demanded repayment of the relocation expenses that claimant incurred incident to his transfer to his new PDS. Pursuant to 31 U.S.C. § 3702(a)(3), Congress directed the Administrator of General Services (GSA Administrator) to "settle claims involving expenses incurred by Federal civilian employees . . . for relocation expenses incident to transfers of official duty station." The GSA Administrator has delegated that authority to the Board. *See* GSA Delegations of Authority Manual, ADM 5450.39D, ch. 19, ¶ 1(a) (Dec. 12, 2016). The statute, coupled with the GSA Administrator's delegation of authority, grants us authority to settle the relocation expenses claim at issue in this matter.

II. Claimant's Request for Discovery

In his initial submission to the Board, claimant asked that we allow him to use the "discovery tools of interrogatories, deposition, and production of records," as permitted by the Federal Rules of Civil Procedure (FRCP), to obtain information from the Government in this matter. The Board's Rules do not contemplate or authorize discovery by the parties in travel and relocation cases, and for good reason. Discovery, as contemplated by the FRCP, is part of an adversarial system through which the parties develop evidence in support of their respective cases for presentation to a neutral decision-maker or jury, which ultimately will resolve factual disputes. *See Minnesota Mining & Manufacturing Co. v. Pribyl*, 259 F.3d 587, 606 n.5 (7th Cir. 2001); Robert G. Johnston & Sara Lufrano, "The Adversary System as a Means of Seeking Truth and Justice," 35 J. Marshall L. Rev. 147, 148 (2002). The statute under which we resolve travel and relocation claims, 31 U.S.C. § 3702, does not contemplate an adversarial system of that nature. In settling travel and relocation claims, the Board issues a written decision based upon submissions by the claimant and the agency, supplemented by information that the parties might provide during conferences. Board Rule 406 (48 CFR 6104.406 (2023)). "[T]hat type of review does not permit adversarial hearings or the resolution of disputed material facts that would be necessary to grant relief to a claimant." *Tommy A.*, CBCA 7731-TRAV, 24-1 BCA ¶ 38,477, at 187,021 (2023). Because our travel and relocation authority is not part of an adversarial system, our delegation of authority from the GSA Administrator does not authorize us to order the type of adversarial system discovery that claimant has requested.

Claimant also indicated that he is still awaiting a response to the FOIA request that he submitted to the FBI a few months ago. It is not clear whether the FBI has provided a

partial response to that FOIA request, but, even if it has not, claimant's descriptions of the information that he is seeking indicate that the material is only tangentially relevant (if at all) and ultimately unnecessary to the issues before us: whether claimant met his twelve-month commitment to his new PDS and, if not, whether the FBI must waive claimant's obligation to repay relocation expenses based upon his failure to satisfy that commitment. The main piece of information that claimant seeks, he tells us, is proof of the contents of the CSA that he signed. Although claimant acknowledges that he "signed a document that I believe this Board calls a CSA," he apparently is not certain that the CSA in the record is the one that he signed. Given that *claimant* is the party that, as an attachment to his claim, provided the Board with the CSA that is in the record, it is difficult for the Board to understand why claimant disputes the CSA's contents or what further information claimant needs from the agency. In any event, for reasons that we will discuss below, claimant's questions about the CSA and its contents are ultimately unnecessary to allow for resolution of this matter. We need not defer this matter indefinitely pending claimant's receipt of additional information that could not affect the result.

III. The Agency's Entitlement to Relocation Cost Reimbursement

A. Relocation Expense Reimbursement Obligations

Pursuant to 5 U.S.C. § 5724(a), the Government pays certain relocation expenses of an employee who is being transferred in the Government's interests from one PDS to another. Before receiving such benefits, the federal employee must sign a service agreement committing to remain with the Government at the new PDS for a specific period of time. *Id.* § 5724(i); 41 CFR 302-2.13, -2.14 (2020) (FTR 302-2.13, -2.14). For a transfer from one CONUS PDS to another CONUS PDS, that minimum time commitment is twelve months. 5 U.S.C. § 5724(i); 41 CFR 302-2.14(a). "If the employee violates the agreement, the money spent by the Government for the expenses and allowances is recoverable from the employee as a debt due the Government." 5 U.S.C. § 5724(i). As set forth in the FTR, only if the employee's early departure from the new PDS was for reasons beyond his control that are acceptable to the agency will the agency be barred from recovering the expenses that it paid on the employee's behalf:

Will I be penalized for violation of my service agreement?

Yes, if you violate a service agreement (other than for reasons beyond your control and which must be accepted by your agency), you will have incurred a debt due to the Government and you must reimburse all costs that your agency has paid towards your relocation expenses.

Id. 302-2.15; *see* 5 U.S.C. § 5724(i) (providing that an early departure may be excused if the employee “separated for reasons beyond his control that are acceptable to the agency concerned”).

Applying those statutory and regulatory provisions to our review of claimant’s challenge to a government demand for repayment of relocation expenses, we break claimant’s challenge into three parts: *first*, we consider whether the employee violated the service agreement; *second*, if he did, we consider whether the violation was caused by “reasons beyond [the employee’s] control” that could excuse the violation, 41 CFR 302-2.15; and, *third*, if so, we consider whether those reasons are or should be acceptable to the agency to allow for forgiveness of the relocation expenses debt.

B. Whether Claimant Violated His CSA

The Government cannot recoup previously-paid relocation expenses unless the employee violated his CSA. 5 U.S.C. § 5724(i). Although the burden of establishing the employee’s breach of the service agreement is on the Government, *see Technical Assistance International, Inc. v. United States*, 150 F.3d 1369, 1373 (Fed. Cir. 1998) (“The party alleging a breach of contract bears the burden of proving the breach.”), that burden is easily satisfied here. When claimant signed his CSA, he agreed to remain in service with the FBI at his new PDS for twelve months from the date upon which he reported for duty there and to repay the Government for his relocation costs if he prematurely ended that service. Claimant resigned from his duty with the FBI before serving those twelve months, violating his agreement.

As previously indicated, even though claimant attached a CSA to his claim, claimant now questions whether that is the one that he electronically signed, and he complains that the agency has not been timely or helpful in responding to a FOIA request designed to require production of his signed CSA. Although we do not understand why claimant questions whether his copy of the CSA is genuine, the mandatory statutory and regulatory requirements that a transferring employee must fulfill before obtaining reimbursement of relocation expenses moot claimant’s concerns. Before and as a condition of receiving relocation benefits as part of a transfer from one CONUS PDS to another CONUS PDS, the federal employee must sign a CSA committing to remaining with the Government at the new PDS for a minimum of twelve months. 5 U.S.C. § 5724(i); FTR 302-2.13, -2.14. If claimant did not sign a CSA agreeing to accept such an obligation, he was not entitled to any relocation expense reimbursements in the first place, any reimbursement of relocation expenses to him would have been unauthorized, and he would be required to disgorge that reimbursement now. *See Kevin S. Foster*, GSBICA 13639-RELO, 97-1 BCA ¶ 28,688, at 143,294 (1996) (“The Government may not spend money in violation of statute or regulation.”). For purposes of this decision, we will assume that claimant signed a CSA (whether it be the one

attached to his claim or one with slightly different language) that, consistent with the statute and regulation, required claimant to remain in his new PDS for twelve months, which would entitle him to relocation expenses if he satisfied that commitment. Claimant's assertions that he cannot address his entitlement to relocation expenses unless he sees the agency's copy of his signed CSA and that he should be able to keep his relocation expense reimbursement if there is not a CSA that required him to remain at the new PDS for twelve months are unfounded.

In his submissions to the Board, claimant at one point also suggests (somewhat inconsistently with other positions in his submissions) that his twelve-month commitment to the new PDS started to run on March 17, 2021, the date that he signed his CSA and received his transfer orders, and that he fulfilled his one-year commitment to the new PDS position because he did not resign from the FBI until April 1, 2022, more than a year later. As is clear from the plain language of the only version of the CSA in the record, however, the time from which claimant's twelve-month commitment started to run was "the day you report for duty at the new duty station," not the day that claimant signed the CSA or received his transfer orders. That is consistent with FTR 302-2.13, which requires that the twelve-month period which the employee commits to serve after transfer to the new PDS begins to run "after [the employee] ha[s] relocated." Because claimant did not report to the new PDS until sometime in May or June 2021, he had not fulfilled his twelve-month commitment by the time that he resigned on April 1, 2022.

C. Whether Reasons Beyond Claimant's Control Caused His Early Separation

Once the agency establishes a violation of the CSA, the burden shifts to the employee to demonstrate the excusability of his early separation—that is, that his reasons for leaving the PDS early were caused by circumstances beyond his control. *David S. Garber*, CBCA 2400-RELO, 11-2 BCA ¶ 34,831, at 171,372. "[U]nless an employee can show that his resignation was effectively forced by the agency without reasonable grounds, the resignation will be presumed to have been voluntary, and if it occurs within twelve months of a transfer, the agency may recover as a debt the expenses it paid for the employee's relocation." *Id.* (quoting *Kerry Flood*, GSBICA 16806-RELO, 06-1 BCA ¶ 33,279, at 164,999). We have held that the agency has a great deal of discretion in "the determination of whether a reason is beyond the employee's control," *Marilyn Fournier*, CBCA 460-RELO, 07-1 BCA ¶ 33,495, at 166,014, and that we will not question the "agency's exercise of its discretion so long as it has a reasonable basis," *Benjamin A. Hanfelder*, CBCA 1294-RELO, 08-2 BCA ¶ 33,987, at 168,102 (quoting *Paula A. Shimata*, CBCA 1135-RELO, 08-2 BCA ¶ 33,901, at 167,775), and was "exercised in a reasonable manner." *Clarence J. Larson*, CBCA 616-RELO, 07-2 BCA ¶ 33,671, at 166,703.

Claimant argues in his submissions to the Board that he suffered “trauma” because of actions by his supervisor that he found insufficiently supportive of his training needs. Neither when he departed the new PDS nor in his initial submissions to the agency in response to the repayment demand did claimant mention trauma as a basis for his early resignation and departure. “[U]nsubstantiated allegations of medical issues and problems in the work place are not sufficient to overturn the agency’s determination.” *Benjamin A. Hanfelder*, 08-2 BCA at 168,103; *see Erik E. Ehrenborg*, CBCA 1678-RELO, 10-1 BCA ¶ 34,370, at 169,723 (finding that agency’s decision to require relocation expense reimbursement was not unreasonable where the claimant cited an “unusual amount of pressure” and living conditions that caused his wife’s ambiguous health conditions); *Raymond D. Provost*, GSBCA 16952-RELO, 07-1 BCA ¶ 33,448, at 165,789-90 (2006) (finding that, where the only support for an employee’s claim of medical need was a doctor’s note stating, “Due to multiple medical problems it is suggested [employee] not work [more than] 8 hrs/day,” the agency was entitled to require repayment of relocation expenses when the employee departed the new PDS after four months); *Amy Oestreich*, GSBCA 16489-RELO, 05-1 BCA ¶ 32,852, at 162,789 (2004) (finding, where the employee “suggest[ed] that she encountered trouble on the job” but had “not explained why her work environment caused her to resign her position rather than seek a transfer,” that “[s]uch vague statements are not sufficient for overturning the agency’s determination”). Further, the agency may question, and discount, a claimant’s explanation for early departure if claimant did not mention it when departing the PDS and raised it for the first time only *after* the agency sought relocation expense reimbursement. *See, e.g., Benjamin A. Hanfelder*, 08-2 BCA at 168,103; *Deborah C. Brooks*, B-255496, 1994 WL 143680 (Comp. Gen. Apr. 20, 1994).

Here, claimant’s assertions of trauma were first raised in his submission to the Board, and, even then, claimant failed to describe the factual circumstances that gave rise to the trauma or even to explain what the trauma was. Such a vague and late-raised allegation provides no basis for questioning the agency’s discretionary decision to require relocation expense reimbursement.

Although he did not originally allege to the agency that trauma was the reason for his early departure, claimant represents that, before he departed from his position, he had informed his supervisor that he was suffering from “imposter syndrome,” which was affecting his outlook towards his position. He indicates that he then developed anxiety and depression, which ultimately caused him to resign from his position. Depression and severe anxiety potentially can rise to the level of a disability under the Rehabilitation Act of 1973 (RHA), 29 U.S.C. § 791(f), which, if they “substantially limit[] one or more major life activities of [an] individual” or if an individual is “regarded as having such an impairment,”

42 U.S.C. § 12102(1),² could require the agency to provide reasonable accommodations to the employee. *Office of Senate Sergeant at Arms v. Office of Senate Fair Employment Practices*, 95 F.3d 1102, 1108 (Fed. Cir. 1996); *see Bedford v. Michigan*, 722 F. App'x 515, 519 (6th Cir. 2018) (“[D]epression and severe anxiety, whatever its cause, can rise to the level of a disability.”). Nevertheless, an “entity’s duty to accommodate arises only when it knows of a disability, and its duty is therefore prospective from the time when it gained knowledge of the disability.” *Id.* at 1107.

Nothing in the record indicates that, after his disclosure of imposter syndrome, claimant ever affirmatively disclosed a worsening mental health condition to his employer or asserted a disability. Even if claimant’s first-line supervisor might have deduced some degree of depression from claimant’s imposter syndrome disclosure, “partial, speculative, or hearsay knowledge” is not sufficient to invoke the RHA. *Office of Senate Sergeant at Arms*, 95 F.3d at 1107. In any event, even taking into account the added allegations in claimant’s November 25, 2024, five-page declaration about how his first-line cyber squad supervisor should have noticed his mental state, the record contains nothing to suggest that claimant disclosed to the agency before he resigned a degree of depression and severe anxiety that met the standard required to invoke the RHA’s protections. “When an employee has a disability, disclosure of the disability by the employee is . . . a prerequisite to the employer’s duty to make accommodation.” *Office of Senate Sergeant at Arms*, 95 F.3d at 1108; *see id.* (“[U]ntil the employer is made aware of the disability, the duty to accommodate does not arise.”).

Further, “[t]he employee or applicant must request a reasonable accommodation; the employer is not liable for failing to provide an accommodation if it was not requested.” H.R. Rep. No. 101-485(III), at 39 (1990), *reprinted in* 1990 U.S.C.C.A.N. 445, 462; *see Pappas v. District of Columbia*, 513 F. Supp. 3d 64, 87 (D.D.C. 2021) (“[T]o state a claim under a failure to accommodate theory, plaintiffs are required to have first made an affirmative request to an employer for accommodations.”). Nothing in the record shows that claimant either expressly or implicitly requested a reasonable accommodation to address his alleged anxiety and depression before resigning. By failing to make the necessary disclosure and to request an accommodation, claimant denied the agency an opportunity (in response to such a disclosure) to work with claimant and to make reasonable accommodations that might have made claimant’s work situation more bearable for him.

² Section 501 of the RHA, 29 U.S.C. § 791, provides certain protections to federal employees with disabilities. Subsection 501(f) of the RHA (*id.* § 791(f)) effectively incorporates and makes applicable to federal agencies the provisions of the Americans with Disabilities Act (ADA), which includes the requirement that employers provide reasonable accommodations to employees with disabilities. 42 U.S.C. § 12112.

The Board has, in the past, excused employees who resigned from difficult work situations before fulfilling their time-in-service obligations at a new PDS from having to repay relocation expenses. However, consistent with the RHA, those situations all involved circumstances in which the employee, before resigning or transferring, disclosed his or her difficulties to the agency, including their severity, and made repeated failed attempts to have the agency address them. For example, in *Melinda K. Kitchens*, GSBCA 16639-RELO, 05-2 BCA ¶ 33,062, an employee who claimed that a hostile work environment caused her to leave her PDS before she had fulfilled her service commitment had sought redress through higher level superiors multiple times over the course of five months for repeated sexist remarks by her supervisor, who the agency (after the employee's departure) removed from federal service. 05-2 BCA at 163,877. The board found that, because the agency did not attempt meaningfully to resolve the employee's work environment problems when it was aware of the ongoing situation, the employee was left with no choice but to resign and, under the circumstances, excused the employee from reimbursing the agency for relocation expenses. *Id.* at 163,878-79. In a related but somewhat different example, in *Jeanne Hehr*, GSBCA 16936-RELO, 06-2 BCA ¶ 33,431, an employee, before incurring any relocation costs, was candid about family's health concerns that might affect her ability to complete her service agreement, the agency told her that it would cover the expenses of a house hunting trip even if those health concerns affected her service time. 06-2 BCA at 165,739-42. In addition, when signing the service agreement, she diligently communicated to agency headquarters that she would have to retire early to care for her father if his condition worsened. *Id.* at 165,740-41. In those circumstances, the board waived relocation expense reimbursement after the employee retired early and failed to complete her service term in response to her father's worsening illness. *Id.* at 165,742.

Here, though, claimant's pre-resignation disclosures to and dealings with his agency do not rise to that level. He did not affirmatively report to his agency while he was employed that mental health issues were precluding his ability to function. Likewise, he did not seek higher-level supervisory involvement when he felt that he was not obtaining sufficient response from his first-line supervisor. When he resigned from the FBI, he initially offered "personal reasons" for his resignation. Only after the agency demanded repayment of his relocation expenses did he disclose that depression and anxiety caused him to resign. Because claimant did not provide the agency any opportunities to accommodate what he contends was a mental health issue that affected his ability to work, the agency is not obligated to consider claimant's health as a basis for excusing his breach of his service time commitment.

Even if the agency were to consider claimant's late-raised disclosures, the record here, as with claimant's allegations of trauma, contains no explanation of how or why depression and anxiety precluded him from completing his service commitment. Although he has offered a report from his current counselor's supervisor, that report is devoid of any specific

factual information and does not contain any further insight as to why claimant's mental health issues precluded him from satisfying his commitment. He has no medical report establishing a connection between his depression and anxiety and his inability to remain at his PDS (or to request an accommodation that might have allowed the agency to provide an outlet through which claimant could have continued his work). Even the added allegations in claimant's November 25, 2024, declaration do not provide a viable basis for avoiding reimbursement. There, claimant complains of his dislike for his first-line supervisor's management style and asserts that the supervisor provided inadequate support for employees, without explaining how that behavior caused claimant to suffer trauma and mental health issues as opposed to merely creating a job situation that he did not like. Vague representations about mental health and difficulties in working with a supervisor are not sufficient to establish a causal connection between mental health issues and early departure. *See Paula A. Shimata*, 08-2 BCA at 167,774-75 (a doctor's note stating that claimant's father was taking blood pressure medication and another describing her uncle's health condition in four words "did not adequately support a conclusion that her family situation" required her to resign). In the circumstances here, we cannot say that the agency was barred from finding that claimant's early resignation was for reasons other than those beyond his control.

D. Whether The Reasons Were Acceptable to the Agency

As we have not overturned the agency's finding that claimant's departure from his new PDS was not beyond his control, we do not need to evaluate whether his reasons for departing should have been acceptable to the agency. *See David S. Garber*, 11-2 BCA at 171,372 (limiting any such inquiry to "whether the agency reasonably exercised its discretion").

IV. Claimant's Request for Proration of the Debt

Claimant asks that, at a minimum, the FBI collect only one-sixth of the relocation costs that the FBI paid on his behalf, crediting him for his ten months of service at his new duty station and charging him only for the two months that he failed to serve. FTR 302-2.15 does not permit that type of proration. If an employee fails to satisfy his service time obligation, he "must reimburse *all* costs that [the] agency has paid towards . . . relocation expenses." *Id.* (emphasis added). "[T]here is simply no statutory, regulatory or contractual authority to prorate the amount due based upon the number of months of service." *John Bukowski*, GSBCA 14724-RELO, 99-1 BCA ¶ 30,200, at 149,442 (1998); *see Jose A. Baeza*, CBCA 2097-RELO, 10-2 BCA ¶ 34,575, at 170,462; *Jose Cabrera, Jr.*, GSBCA 15332-RELO, 01-1 BCA ¶ 31,212, at 154,084 (2000). Accordingly, the agency has the right to recover all relocation expenses that it paid.

V. Claimant's Right to Continue to Seek a Discretionary Waiver

Up to this point, we have focused on whether the FBI had the *right* to require claimant to repay his relocation expenses, and we have found that it did. Enforcement of that right, though, is and remains discretionary. “There is no automatic *requirement* that the agency establish and collect a debt in the amount of the relocation costs should an employee fail to complete a full twelve months of service after moving at the Government’s expense.” *Melinda K. Kitchens*, 05-2 BCA at 163,878 (emphasis added). As previously discussed, by statute, the agency may waive repayment obligations if an employee’s failure to satisfy the required time commitment was for reasons beyond the employee’s control that are acceptable to the agency. 5 U.S.C. § 5724(i); see *Raymond B. Provost*, 07-1 BCA at 165,789; FTR 302-2.15. In reality, that provision leaves the agency with “considerable discretion in deciding whether to release an employee from this [repayment] obligation.” *Melissa K. Kitchens*, 05-2 BCA at 163,878; see *Comp. Gen. Dec. B-174823*, 1972 WL 7178, at *2 (Jan. 26, 1972) (“Our decisions have recognized circumstances where, even though appearing to be voluntary, a separation by resignation may be regarded as being for reasons beyond the employee’s control, thus permitting cancellation of the indebtedness.”).

Claimant has provided the Board with a recent report from his current counselor’s supervisor about his mental health, but, as previously mentioned, it provides no content that would establish a basis for his early PDS departure. Although the information that claimant has provided to the Board to date is mostly vague and lacks any specifics, claimant remains free to ask his counselor or other medical professionals to provide greater detail about mental health challenges that caused him to depart his PDS early and to prepare additional documentation and evidence on his behalf, which he may submit to the FBI as part of a request that the FBI reconsider its decision to require reimbursement. It remains within the FBI’s discretion to determine—if it finds additional information from claimant convincing that his early departure was reasonably outside of his control—that claimant’s reimbursement obligations should be waived.

We also note that the amount of the debt at issue here, which involves a demand for repayment of more than \$60,000, is close to a year’s salary for a GS-09 federal employee like claimant. Granted, this debt includes amounts that the FBI paid to relieve claimant of some of the costs of selling a residence at his prior CONUS PDS, which other sellers of real estate normally would have to cover themselves. Nevertheless, claimant has presented additional information about his current financial situation, including new childcare costs, that he asserts makes the amount of the current debt demand untenable. Pursuant to 5 U.S.C. § 5584(a), “[a] claim of the United States against a person arising out of . . . an erroneous payment of travel, transportation or relocation expenses and allowances, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by . . . the

authorized official.” *Id.* § 5584(a); *see Heather M. Morgan*, CBCA 3982-TRAV, 15-1 BCA ¶ 35,945, at 175,674; *RuthAnne S. Darling*, CBCA 1461-TRAV, 09-2 BCA ¶ 34,153, at 168,825. Although the Board itself lacks authority to waive a debt under this statutory provision, *see Heather M. Morgan*, 15-1 BCA at 175,674, we encourage the agency to consider the possibility of invoking this statutory provision to waive some or all of claimant’s debt in light of his current financial circumstances.

Decision

The claim is denied. Nevertheless, claimant is not barred from submitting supplemental information to the agency and requesting that the agency, in its discretion, waive the existing debt.

Harold D. Lester, Jr.
HAROLD D. LESTER, JR.
Board Judge