



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

August 19, 2025

CBCA 8298-RELO

In the Matter of CASEY C.

Casey C., Claimant.

James Barnes, Relocation Counselor, Relocation Services Branch, Federal Employee Relocation Center, Environmental Protection Agency, Cincinnati, OH, appearing for Environmental Protection Agency.

O'ROURKE, Board Judge.

Claimant seeks reimbursement of \$6290, the remaining amount of the real estate commission he paid for the sale of his home that was not reimbursed by the agency. Because we find that the commission rate that claimant paid did not exceed those rates generally charged in the locality of his old official station, we grant the claim.

Background

In February 2024, pursuant to permanent change of station (PCS) orders, the Bureau of Alcohol, Tobacco, Firearms and Explosives (agency) transferred claimant from his old duty station in St. Louis, Missouri, to a new duty station in Florida. Claimant owned a home in Columbia, Illinois, about fifteen miles from St. Louis, and planned to sell it in connection with his PCS.

Claimant hired a real estate agent to assist with the sale of his home. The house sold in August 2024. As part of the closing process, claimant signed a settlement statement authorizing the payment of \$44,030 to his real estate agent as a commission. The commission amount represented seven percent of the sales price of the house. Among other allowable PCS expenses, claimant sought reimbursement of the real estate commission. The

agency reimbursed claimant \$37,740, which represented six percent of the sales price. The agency's reimbursement voucher simply stated, "[R]eal estate commission is capped at 6%." Claimant asked the agency about whether the additional one percent of the real estate commission—which amounted to \$6290—would be paid. The agency representative informed claimant that, without evidence supporting a seven percent commission rate as being customary in the area, claimant's reimbursement was capped at six percent, a rate that the agency determined was substantiated by the sales transaction data for the locality.

In support of paying the higher rate, claimant provided the agency representative an email from his realtor which stated that the real estate company had a standard commission fee of seven percent for out-of-town sellers to cover increased costs and services. The real estate agent described these services as regular security checks on the home, staging, and other costs to keep the home in good repair and to maintain curb appeal (e.g. landscaping and interior maintenance). For these reasons, claimant's real estate company charges a fixed rate of seven percent for all out-of-town sellers. Claimant's home was vacant for six months before it sold.

Other evidence submitted by claimant included a print-out from the website, "HomeLight," which contained information about real estate commission rates in the St. Louis area. According to the document, based on 144 home sales, the average commission rate in 2022 for the St. Louis area was 8.38 percent. The document also showed a three-year average real estate commission rate of 6.73 percent for years 2020, 2021, and 2022. Claimant's home went on the market in early 2024 and sold in August 2024. Notwithstanding this information, the agency stood by the six percent reimbursement rate but informed claimant that he could seek the Board's review in an attempt to recoup the remaining one percent of the fee.

In his request to the Board, claimant explained that he could not find any guidance, either from what the agency provided to him or in the relevant statutes and regulations, that the reimbursable real estate commission rate was capped at six percent. In support of his claim for the remainder of the commission, claimant provided copies of all relevant documents related to the sale of his home and his travel voucher, as well as the email from his realtor and the information from the real estate website. In response to claimant's submission to the Board, the agency stated, "The rate he was charged seems to be above the national average as well as the average for the locality." The agency included redacted copies of three closing disclosures that the agency processed for reimbursement in 2024. All of these disclosures showed a six percent commission rate. The agency also included a document from a real estate website showing that the national commission was 5.32 percent, the rate for Illinois was 5.07 percent, the rate for Missouri was 5.73 percent, and the rate for Columbia, Illinois was 5.8 percent. The Board provided claimant with an opportunity to

reply to the agency's response, but claimant stated that he did not have any additional information to submit beyond what he had already provided to the Board.

Discussion

Congress authorized certain benefits for federal employees in order to alleviate the costs associated with a PCS move. *Alphonso S. Hamilton*, CBCA 5109-RELO, 16-1 BCA ¶ 36,441, at 177,607. Relevant here is the statutory provision that permits "reimbursement for brokerage fees on the sale of a residence" that do not "exceed those customarily charged in the locality where the residence is located." 5 U.S.C. § 5724a(d)(4) (2018). The Federal Travel Regulation (FTR) implements this statutory directive and contains similar language:

[Y]our agency will, with appropriate supporting documentation provided by you, reimburse you for . . . [y]our broker's fee or real estate commission that you pay in the sale of your residence at the last official station, not to exceed the rates that are generally charged in the locality of your old official station.

41 CFR 302-11.200(a) (2023) (FTR 302-11.200(a)).

"By using the plural—*i.e.*, 'Rates'—the regulations appear to acknowledge that, even in a particular locality, there may be a variety of different commission rates being 'generally charged'" for home sales. *Christina M. Gallagher*, CBCA 2182-RELO, 11-1 BCA ¶ 34,651, at 170,740 (2010). It is claimant's burden to prove, by a preponderance of the evidence, what rates are generally charged in the relevant area. *Bradley N. McDonald*, CBCA 5025-RELO, 16-1 BCA ¶ 36,345, at 177,205.

The statement from the realtor that his firm assesses a standard rate of seven percent for all out-of-town sellers was not supported by any statistical data or evidence of individual sales transactions. A letter from a broker stating that he generally charges a particular fee is usually insufficient evidence of rates generally charged in a particular locality. *Alexandria N.*, CBCA 8196-RELO, 25-1 BCA ¶ 38,779, at 188,507. Here, however, since the rate was "standard" for a particular *category* of sellers (out-of-town sellers), this could be construed as a rate "generally charged" in the area. In *Janice Ayala*, despite the lack of empirical data to support payment of a seven percent commission rate, the Board gave the realtor's statement "heightened importance" because the statement was "directed at a particular class of transactions." GSBCA 16330-RELO, 04-1 BCA ¶ 32,580, at 161,197. This is similar to the instant case.

Under the circumstances here, the seven percent rate categorically applied to all out-of-town sellers. The agency did not challenge this statement. Instead, the agency submitted

documentation of three sales transactions with a six percent commission rate, one in Peoria, Illinois, one in Kansas City, Missouri, and one in Chicago, Illinois. Although these sales all involved houses in urban areas, these properties are, respectively, 168 miles, 248 miles, and 312 miles from claimant's former duty station (St. Louis), and none of them appears to involve remote sellers.¹ The agency also provided a print-out from the same website that claimant used. The document shows a real estate commission rate of 5.8 percent for Columbia, Illinois, which is where claimant's property was located, as well as rates for the surrounding states and the nation. While this document provides information about real estate commissions, we find that its probative value is not dispositive in this case, as only one of those rates is potentially relevant here.

Based on the submissions of both parties, we note rates as low as 5.07 percent and as high as 8.38 percent. However, the regulation does not call for the lowest or highest rate or even the average rate. Nor does it call for a national rate or for rates in cities four hours away from the old official duty station. The Board has previously noted that “[a]lthough a 6% commission rate may frequently appear . . . throughout the country, the regulations do not mandate that rate or preclude reimbursement at higher rates.” *Christina M. Gallagher*, 11-1 BCA at 170,740. Thus, we are not seeking to identify the *single* most prevalent rate. Our task here is to determine whether a rate of seven percent exceeds rates *generally charged* in the St. Louis area. In light of the evidence presented, we find that it does not.

Most compelling here is the fact that the seven percent rate applied to an entire category of sellers in the area—a category which included claimant. The agency did not challenge this assertion. Nor did it rebut evidence of commission rates as high as 8.38 percent in 144 home sales in the St. Louis area. These commission rates for the St. Louis area—though arguably less persuasive because the homes were sold in 2022—lend further support to our determination that a real estate commission of seven percent did not exceed rates generally charged in the locality of claimant's former duty station.

Decision

The claim is granted.

Kathleen J. O'Rourke
KATHLEEN J. O'ROURKE
Board Judge

¹ Two of the sales showed the same zip code for the seller and the property for sale. The third one involved a property for sale in Kansas City, Missouri, with the seller listing an address about twenty miles away in Smithville, Missouri.