

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

September 25, 2001

GSBCA 15632-RELO

In the Matter of PHILIPPE J. MINARD

Philippe J. Minard, Hanahan, SC, Claimant.

Barbara Williams, Financial Specialist, National Business Center, Office of the Secretary, Department of the Interior, Denver, CO, appearing for Department of the Interior.

DeGRAFF, Board Judge.

In June 2000, the Department of Commerce transferred Philippe J. Minard from one permanent duty station to another.¹ The agency reimbursed Mr. Minard for his relocation expenses and paid him a withholding tax allowance (WTA). The following year, the agency told Mr. Minard that he would have to repay \$1627.81 of the allowance. Mr. Minard objects to repaying this amount. He says that the agency did not warn him that it might ask for repayment of any part of the WTA and that he was surprised by such a request. The agency explains that it reviewed all of the data related to Mr. Minard's WTA for accuracy and that according to the agency's calculations, the amount of the WTA it paid to Mr. Minard exceeded the amount due by \$1627.81. The agency supplied Mr. Minard and the Board with the data and the calculations it used to determine the amount of the WTA.

Agencies are directed by statute to reimburse employees for "substantially all" of the taxes they incur for reimbursed moving expenses. 5 U.S.C. § 5724b (1994 & Supp. IV 1999). The Federal Travel Regulation implements this statutory directive by establishing a two-step procedure that agencies use to reimburse employees for such taxes. The first step is to calculate and to pay a WTA. The second step is to calculate a relocation income tax allowance (RITA). Sometimes, the calculation of the RITA shows that an employee's WTA was too small, in which case the agency must make an additional payment to the employee. Other times, the calculation shows that the agency paid an excessive WTA, in which case the employee must repay the excessive WTA to the agency. 41 CFR ch. 302-11 (2000).

¹ As a service to the Department of Commerce, the Department of Interior calculated the amounts due to Mr. Minard by the Department of Commerce as a result of his transfer. In this decision, we refer to both departments as "the agency."

Mr. Minard is required to repay the \$1627.81. We have consistently decided that agencies are entitled to collect excessive WTA payments from employees. Brian Johnson, GSBCA 15316-RELO, 01-1 BCA ¶ 31,337 (citing cases). Although Mr. Minard was surprised at the agency's request for repayment, he has not pointed out any error in the agency's calculations or in the data upon which it relied to make its calculations. Because Mr. Minard has not established that this claim should be resolved in his favor, we deny the claim. Board Rule 401(c) (48 CFR 6104.1(c) (2000)).

MARTHA H. DeGRAFF
Board Judge