

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 29, 2002

GSBCA 15690-RELO

In the Matter of LINDA A. COLQUITT

Linda A. Colquitt, Atlanta, GA, Claimant.

Linda D. Fountain, Lead Realty Specialist, Homeowners Assistance Program, Real Estate Division, United States Army Corps of Engineers, Savannah, GA, appearing for Department of the Army.

NEILL, Board Judge.

In October 2001, Claimant, Ms. Linda Colquitt, asked this Board to review an alleged denial of payment of a claim brought under the Department of Defense's Homeowners Assistance Program (HAP). She had submitted her claim to the United States Army Corps of Engineers (the Corps), which is responsible for administering the program.

Under the HAP, military personnel and federally employed civilians who must sell their homes in a market that has been adversely affected by a base closure action are given financial assistance. In areas where the program is implemented, eligible employees should be able to recover the difference between the sales price of their homes and ninety-five percent of the fair market value of their houses at the time of the base closure announcement. 42 U.S.C. § 3374(c) (1994).

In response to our request for an agency report for this case, a representative of the Corps has explained that, as of the date of Ms. Colquitt's claim, no final decision had been made on whether to implement the HAP for the Pensacola, Florida, area where Ms. Colquitt's home was located. Her claim was, therefore, premature. Once the information gathering is complete, a decision will be made as to whether conditions exist to implement the HAP for that area. In the event a decision is made not to do so, potential claimants, such as Ms. Colquitt, have the right to appeal that decision. The Corps representative has further represented to us that, pursuant to a delegation from the Secretary of Defense, authority to take final action on appeals of decisions made on applications under the HAP is vested in the Deputy Assistant Secretary of the Army, Installation and Housing.

Because the HAP is a Department of Defense program, the Corps representative in this case has asked that we dismiss this case as being outside the class of cases this Board hears and decides.

Upon receipt of the agency's report and its request to dismiss, we invited Ms. Colquitt to comment upon the submission. She appears to agree with the Corps that her case is outside the purview of this Board's jurisdiction, for she now asks that we forward her claim to the Deputy Assistant Secretary of the Army, Installation and Housing, for action.

We agree with the Corps that our authority to settle claims of federal civilian employees for relocation expenses incident to transfers of official duty stations does not extend to HAP claims. By law the HAP and related programs are to be administered under such conditions and regulations as may be prescribed by the Secretary of Defense. These regulations prescribe the terms and conditions under which payments may be made. All determinations and decisions made pursuant to these regulations regarding payments are to be considered final and conclusive and are not subject to judicial review. 42 U.S.C. § 3374(f). Such a comprehensive administrative system established by statute for processing HAP claims undoubtedly preempts any general authority this Board has to settle claims for relocation expenses pursuant to 31 U.S.C. § 3702(a)(3) (Supp. V 1999). Vereda, Ltda. v. United States, 271 F.3d 1367, 1375 (Fed. Cir. 2001). We, therefore, grant the request for dismissal.

This case is dismissed. In accordance with claimant's wishes, we will forward her claim to the Deputy Assistant Secretary of the Army for whatever action the agency deems to be appropriate at this time.

EDWIN B. NEILL
Board Judge