

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

July 31, 2002

GSBCA 15783-RELO

In the Matter of JOSEPH B. MCGILL, JR.

Joseph B. McGill, Jr., Springfield, VA, Claimant.

Karen S. Gillett, Office of the Staff Judge Advocate, Department of the Army, Fort Belvoir, VA, appearing for Department of the Army.

WILLIAMS, Board Judge.

A new appointee who has relocated to accept employment with the Government is not entitled to reimbursement of real estate expenses.

Background

Effective June 4, 2001, claimant, Joseph B. McGill, Jr., was hired as an operations research analyst for the Department of the Army, Center for Army Analysis (CAA). He was offered the job while still in graduate school in State College, Pennsylvania, and he relocated after the completion of his classes. Claimant was advised that reimbursement of real estate expenses would be granted, and CAA issued travel orders to Mr. McGill that authorized reimbursement of real estate expenses in conjunction with his move from State College to Fort Belvoir.

In November 2001, Mr. McGill and his fiancée purchased a home in Springfield, Virginia, and he subsequently filed a claim for reimbursement of real estate expenses. The agency denied reimbursement because he was not entitled to this benefit as a new appointee.

Discussion

It is well established that, by statute, only certain limited expenses may be authorized in connection with the relocation of a new appointee. 5 U.S.C. § 5723 (2000). Such limited expenses do not include reimbursement of real estate transaction expenses. Id.

Regulations implementing these statutes confirm that new hires may not receive any allowances for real estate transactions. 41 CFR § 302-1.10(f) (2000); Joint Travel Regulations (JTR) C 14001-1. Applying these clear statutory and regulatory provisions, the Board has consistently denied claims of new appointees for reimbursement of real estate expenses. E.g., Larry Smith, GSBCA 15686-RELO, 02-1 BCA ¶ 31,692; Barry McGuire, GSBCA 15346-RELO, 01-1 BCA ¶ 31,343; John B. Smith, GSBCA 15319-RELO, 01-1 BCA ¶ 31,338; Debra Jo Dyer, GSBCA 15411-RELO (Feb. 8, 2001); Mukesh Nigam, GSBCA 15140-RELO, 00-1 BCA ¶ 30,821; Wendy Castineira, GSBCA 15092-RELO, 00-1 BCA ¶ 30,740 (1999); Karen R. Brown, GSBCA 14871-RELO, 99-2 BCA ¶ 30,429; Charles G. Bakaly, III, GSBCA 14750-RELO, 99-1 BCA ¶ 30,249, reconsideration denied, 99-1 BCA ¶ 30,367.

We recognize that claimant's travel orders did, in fact, authorize real estate expenses. Such authorization, however, is of no effect since it is clearly contrary to statute and regulation. McGuire. It is well established that the Government may not authorize the payment of money in violation of statute or regulation, even where a claimant may have relied in good faith on an improper authorization to his detriment. Kevin S. Foster, GSBCA 13639-RELO, 97-1 BCA ¶ 28,688 (1996) (citing Office of Personnel Management v. Richmond, 496 U.S. 414 (1990); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947)). While it is unfortunate that claimant cannot be paid under these circumstances, taxpayers' interest is served in not having unlawful disbursement made from public funds. McGuire.

Decision

The claim is denied.

MARY ELLEN COSTER WILLIAMS
Board Judge