

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

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February 25, 2004

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GSBCA 15946-RELO

In the Matter of JOSEPH E. MATTHIEU

Joseph E. Matthieu, Anchorage, AK, Claimant.

SFC Paul D. Hunt, Chief, Travel, 267th Finance Battalion, Department of the Army, Fort Richardson, AK, appearing for Department of the Army.

**HYATT**, Board Judge.

Claimant, Joseph E. Matthieu, seeks reimbursement of his spouse's travel expenses following his permanent change of station from Korea to Alaska. His request for reimbursement was denied by the Department of the Army because Mrs. Matthieu did not travel to Alaska within two years of her husband's transfer there. In the absence of an applicable exception to the two-year time limitation imposed by regulation on the completion of travel incident to a transfer, the agency properly concluded it lacked the authority to reimburse claimant for these travel expenses.

Background

Mr. Matthieu is a civilian employee of the Army. He was transferred from Seoul, Korea, to Eagle River, Alaska, with a reporting date of July 23, 1999. He was authorized to incur relocation expenses including transportation expenses for his spouse. Claimant's travel authorization expressly noted that:

You may not depart the Republic of Korea if your passport and/or visas will expire prior to completion of travel. Renewal and/or revalidation must be made prior to your departure. Japanese visa required for all employees and dependents with MAC flight reservations.

Mrs. Kyong Matthieu, a United States citizen, was scheduled to join her husband in Alaska in July 1999. Although she attempted to depart Korea with her husband at that time, the Korean immigration authorities refused to issue an exit visa allowing her to depart the country. It is not entirely clear why the Korean Government declined to issue an exit visa

to Mrs. Matthieu for nearly three years, but apparently she owed taxes or fines that had not been settled satisfactorily prior to her planned departure. In response to inquiries from the United States Embassy in Korea, the Korean Ministry of Justice explained that in order to issue a visa, it required either payment of the amount owed or evidence demonstrating that Mrs. Matthieu and her family were unable to make the payment. It appears that neither the payment nor a showing of financial hardship was made. Mr. Matthieu states in his submissions that, under Korean law, after three years, it is assumed there will be no payment and the individual may be released. Korea did not issue the visa until the mandatory period had passed without payment. Once the Korean authorities issued the visa, Mrs. Matthieu promptly departed Korea for the United States. She left Korea and arrived in Alaska in April 2002, more than two and one-half years after Mr. Matthieu reported to duty there.

The Army declined to reimburse Mr. Matthieu for the expense of his spouse's travel from Korea to Alaska, on the ground that more than two years had lapsed from the time of Mr. Matthieu's transfer. Mr. Matthieu asks that an exception be granted because his spouse was precluded from returning to the United States until the Korean Government granted her request for a visa.

#### Discussion

As a civilian employee of the Department of Defense, Mr. Matthieu is subject to the provisions of the Joint Travel Regulations (JTR), which implement the Federal Travel Regulation (FTR). The JTR state:

All travel, including that for dependents, and transportation, including that for HHG allowed under these regulations, should be accomplished as soon as possible. Allowable travel and transportation must begin within 2 years from the effective date of an employee's transfer or appointment except that:

1. the 2-year period is exclusive of time spent on furlough for an employee who begins active military service before the expiration of such period . . . .
2. the 2-year period doesn't include any time during which travel and transportation isn't feasible due to shipping restrictions for an employee who is transferred or appointed to or from an OCONUS PDS [outside the continental United States permanent duty station]; and
3. the 2-year period is extended for an additional period of time up to 1 year when the 2-year time limitation for completion of residence transactions is extended under par. C 14000-2.

JTR C1057; accord 41 CFR 302-1.6 (1999).

None of these exceptions apply in the circumstances presented here. Mr. Matthieu is not an employee on active military service. Nor are there any shipping restrictions which prevented his spouse's completion of the transfer-related travel within the two-year period. Finally, we are not aware of any residence transaction for which the two-year time limitation has been extended. There simply is no provision in the pertinent regulation that permits an exception to be made for Mr. Matthieu's situation. The Board has consistently recognized that in the absence of an exception to the general rule prescribed in the regulations, a request for an extension of the two-year time limitation must be denied. Neither the agency nor this Board has the authority to waive the limits on reimbursement contained in the regulation. Terry S. Jones, GSBCA 15257-RELO, 01-1 BCA ¶ 31,269 (2000); James F. Meyer, GSBCA 14939-RELO, 99-2 BCA ¶ 30,490.

Accordingly, the agency's determination is affirmed and Mr. Matthieu's request is denied.

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CATHERINE B. HYATT  
Board Judge