

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

November 22, 2002

GSBCA 15950-RELO

In the Matter of KARL E. SERBOUSEK

Karl E. Serbousek, North Little Rock, AR, Claimant.

Cynthia R. Blevins, Acting Deputy Director, Finance Center, United States Army Corps of Engineers, Department of the Army, Millington, TN, appearing for Department of the Army.

DeGRAFF, Board Judge.

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

Background

In late 2001, the Department of Defense (DoD) offered Karl E. Serbousek a position as a mechanical engineer in Arkansas. Mr. Serbousek, who was not a federal civilian employee, lived in Illinois. DoD initially advised Mr. Serbousek that it would not reimburse him for real estate transaction expenses that he incurred as the result of his move from Illinois to Arkansas. Later, DoD told Mr. Serbousek that it would reimburse him for such expenses, and issued travel orders that authorized the reimbursement of real estate expenses.

In July 2002, Mr. Serbousek asked to be reimbursed for the costs he incurred when he sold his home in Illinois. DoD denied his request because he was not entitled to this benefit as a new appointee. Mr. Serbousek asks that we review DoD's decision.

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 this statute confirm that new hires may not receive any allowances for real estate transactions. 41 CFR 302-1.10(f) (2001); Joint Travel Regulations C14001. Applying these clear statutory and regulatory provisions, the Board has consistently denied claims of new appointees for reimbursement of real estate transaction expenses. Joseph B. McGill, Jr., GSBCA 15783-RELO, 02-2 BCA ¶ 31,990 (citing cases).

We recognize that Mr. Serbousek's travel orders authorized the reimbursement of real estate expenses. Such authorization, however, is of no effect since it is clearly contrary to statute and regulation. 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 upon 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 Mr. Serbousek cannot be paid under these circumstances, the taxpayers' interest is served in not having unlawful disbursements made from public funds.

Decision

The claim is denied.

MARTHA H. DeGRAFF
Board Judge