

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

October 16, 2003

GSBCA 16235-RELO

In the Matter of RICHARD J. WALDO

Richard J. Waldo, APO Area Europe, Claimant.

Rick Miller, Civilian Travel and Allowances, Personnel Resources, Legislation and Entitlements, Office of the Chief of Staff, Department of the Air Force, Washington, DC, appearing for Department of the Air Force.

DANIELS, Board Judge (Chairman).

Richard J. Waldo, a civilian employee of the Department of the Air Force, separated from the civil service in January 2001. At the time, Mr. Waldo was stationed in the United Kingdom. Mr. Waldo is still living in that country, and he asks that our Government pay for travel and transportation expenses he and his wife will incur in returning to the United States as late as July 2004. The Air Force properly rejected his request.

By statute, federal agencies may pay travel and transportation expenses of employees who return from posts of duty overseas, pursuant to applicable regulations. 5 U.S.C. §§ 5722, 5724(d) (2000). The regulations applicable to Mr. Waldo as an employee of the Department of Defense are that department's Joint Travel Regulations (JTR), which provide as follows:

C4201 SEPARATION TRAVEL ENTITLEMENTS

An employee is entitled to travel and transportation allowances for travel from the OCONUS [outside the continental United States] PDS [permanent duty station] to the actual residence established at the time of appointment or transfer to the OCONUS PDS. . . .

C4202 LOSS OF SEPARATION TRAVEL ENTITLEMENTS

. . . .

B. Refusal to Accept or Use Return Travel Entitlements Within a Reasonable Time After Release from Duty. A separating employee loses return travel entitlements when the employee refuses to accept or use them after release from work status in the OCONUS position. OCONUS activity commanding officers may authorize a delay for a reasonable period upon receipt of an employee's written request. Normally, a delay of 90 or less calendar days is reasonable. Under unusual extenuating circumstances that, in the opinion of the OCONUS activity commanding officer, warrant a longer delay, return travel may be delayed up to 2 years from the separation date. . . . [I]f the employee refuses to accept or use travel entitlements at the expiration of the approved delay period, the employee loses the entitlements.

JTR C4201, 4202 (Jan. 1, 2001).

In April 2001, Mr. Waldo asked for an extension of time in which to return to the United States at Government expense because he and his wife needed to remain in the United Kingdom to settle his British mother-in-law's estate. His commanding officer granted the request, allowing Mr. Waldo to delay his trip home until January 2003. At that point, under the applicable regulations, the Air Force had been as generous as it could possibly be to Mr. Waldo. It had permitted him to delay return travel for two years from his separation date. If the employee did not use his travel entitlements by the specified date, he would lose those entitlements.

More difficulties befell Mr. Waldo in the United Kingdom during the two-year period, and he has remained in that country to resolve them. In March 2002, he discovered severe subsidence of the soil under the home he owned. Due to one problem after another, he did not succeed in having damaged portions of the house, the driveway, and a great length of waste pipes demolished and replaced until October 2003. Only now, he says, is the property in salable condition.

While confronted with the problems in rehabilitating his house, in November 2002, Mr. Waldo asked the Air Force to extend his eligibility for return travel and transportation entitlements by a year. The agency refused, pointing out that under JTR C4202-B, it had already granted him the maximum delay possible. Mr. Waldo asks us to reverse this decision, arguing that –

directives provide general rules and guidance for conducting normal everyday business under routine conditions. . . . [M]y case is unique and deserving of an exception to the normal two-year extension policy. Granting me additional time in which to use my travel entitlements will not incur any additional cost to the government, it simply shifts the timing of those costs.

Unfortunately for Mr. Waldo, the JTR is not simply a directive which provides "general rules and guidance for conducting normal everyday business under routine conditions," and its applicable provision does not allow for greater extensions of time no matter what justifications are claimed. JTR C4202-B provides for a ninety-day window for an employee's return home under routine conditions and a larger window, of up to two years,

"[u]nder unusual extenuating circumstances." As the Air Force understands, no further delays are permissible.

We have explained:

The imposition of a time limitation ensures that an employee's travel is clearly incidental to the separation and that the travel will begin in a reasonable time. If an employee does not return to the United States as the result of the termination of an assignment and within a reasonable time, the employee's eventual return should not be authorized at public expense.

Patrick R. Gillen, GSBCA 15748-RELO, 02-2 BCA ¶ 31,869. Notwithstanding genuine reasons for remaining abroad cited by employees who have separated from the civil service while stationed there, the Board has consistently enforced the two-year limitation in the regulations for return travel and transportation. George R. Saulsbery, GSBCA 16027-RELO, 03-1 BCA ¶ 32,179 (family emergency); Gillen (illness requiring continued medical care); Sherrell M. Garth, GSBCA 15729-RELO, 02-1 BCA ¶ 31,778 (completion of legal action and desire for children to remain in same school); Eugene Leong, GSBCA 13666-RELO (Mar. 31, 1997) (medical and personal reasons).

The claim is denied.

STEPHEN M. DANIELS
Board Judge