

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

October 18, 2004

GSBCA 16454-RELO

In the Matter of RICHARD E. STEGALL

Richard E. Stegall, Herndon, VA, Claimant.

Scott L. Mabry, Chief, Finance Division, Minerals Management Service, Department of the Interior, Washington, DC, appearing for Department of the Interior.

HYATT, Board Judge.

A new appointee who takes more than two years after the effective date of his appointment to begin his move to the new duty station is no longer eligible to be paid the expenses of transporting his household goods, notwithstanding the fact that his agency initially gave him erroneous advice concerning his eligibility for reimbursement.

Background

In 2001, claimant, Richard E. Stegall, accepted a position as a business specialist with the Procurement Operations Division of the Department of the Interior's Minerals Management Service (MMS) in Herndon, Virginia. Mr. Stegall reported for duty at MMS on October 7, 2001. This was Mr. Stegall's initial appointment as an employee of the United States Government. At the time he accepted the appointment, Mr. Stegall and his family resided in Charlotte, North Carolina.

The announcement for the position was silent with respect to the availability of relocation expenses. When he reported for work, Mr. Stegall was told that relocation costs would not be allowed. Mr. Stegall accomplished his travel to Herndon prior to reporting for duty on October 7. His wife and son remained in Charlotte so that his son could continue the school year there. Subsequently, his family spent the summer break in Herndon, but then returned to Charlotte so his son could complete his senior year of high school. Some time after his son's graduation, Mr. Stegall's family moved to Herndon from Charlotte.

Approximately two years and four months after claimant reported to work, his Division Chief told him that, due to an administrative oversight, the announcement under

which he was hired had omitted the inclusion of a statement that relocation costs were authorized. After receiving this information, and permanently relocating his family, Mr. Stegall submitted a claim for reimbursement of the cost of transporting his household goods to Virginia. In light of the circumstances, Mr. Stegall's supervisor expressed a willingness to authorize, and did attempt to authorize, a one-year extension of the two-year time limit on commencing travel after a transfer. By letter dated June 15, 2004, the Finance Division of MMS denied his claim, explaining that since his household goods were shipped on May 6, 2004, more than two years after the effective date of his appointment, reimbursement of these costs is barred by the two-year limitation contained in the Federal Travel Regulation (FTR).

Upon receiving this letter, Mr. Stegall asked the Board to review the agency's denial of his claim. He contends that the time frame governing his eligibility for reimbursement should not have begun until he was informed that the costs were authorized. He further states that had he been told the expenses were authorized, he would have expedited his move so as to complete it within the prescribed time.

Discussion

Statute prescribes that only certain, limited expenses may be authorized in connection with the relocation of a new appointee. 5 U.S.C. § 5723 (2000); see also Louis L. Lawes, GSBCA 15577-RELO, 02-1 BCA ¶ 31,748. This provision is implemented in the FTR, which, as it was in effect on the date of claimant's appointment, provided that new appointees could be reimbursed the cost of transportation and temporary storage to the first official station. 41 CFR 302-1.10 (2001). The FTR also provided, in pertinent part, that:

All travel, including that for the immediate family, and transportation, including that for household goods allowed under this chapter, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment. . . .

Id. 302-1.6.¹

The requirement to begin allowable travel and transportation within a defined period of time after a transfer effects the intent of the authorizing statute, which is to ensure that the employee is reimbursed for expenses that are incurred incident to the transfer. See Lawrence W. Weishoff, GSBCA 15536-RELO, 01-2 BCA ¶ 31,504; Paul W. Gard, Jr., GSBCA 15311-RELO, 00-2 BCA ¶ 31,053. This regulation has the force and effect of law and cannot be waived in an individual case. Marion F. Clagg, B-193814 (June 18, 1979); 49 Comp. Gen. 145 (1969). This is the case notwithstanding the fact that the agency erroneously advised claimant that the benefits would not be allowed and was willing to extend the FTR's two-year time limit. Weishoff. In sum, Mr. Stegall was required to begin transportation of his household goods no later than October 6, 2003. Since he did not begin

¹ There are several exceptions to the two-year limit, but none are applicable to claimant's circumstances.

his move by that date, he is not eligible for reimbursement of the costs of transporting his household goods to Virginia.

CATHERINE B. HYATT
Board Judge