

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

August 19, 2005

GSBCA 16695-RELO

In the Matter of JEAN FRANCOIS MPOULI

Jean Francois Mpouli, Renton, WA, Claimant.

Sharon Kent, Manager, Financial Policy Division, Federal Aviation Administration, Department of Transportation, Washington, DC, appearing for Department of Transportation.

GOODMAN, Board Judge.

Claimant is an employee of the Federal Aviation Administration (FAA). He was issued travel orders for a permanent change of station (PCS) transfer from Frankfurt, Germany, to Seattle, Washington, and was authorized reimbursement of real estate expenses incurred as the result of the transfer. He reported to his new duty station on July 14, 2003. In April 2005, he submitted a travel voucher requesting reimbursement of real estate expenses incurred for the purchase of a home at his new duty station. The agency denied the request as untimely, and claimant has requested this Board to review the agency's determination.

In making its determination, the agency relied upon the following provisions of the FAA Travel Policy (FAATP) (Oct. 15, 1998):

§ 302-3.42 When is the latest that my immediate family or I may begin travel and transportation?

You and your immediate family must begin your travel and transportation not later than 18 months after the effective date of your transfer.

§ 302-3.43 May FAA allow me an extension on the 18 month deadline to begin travel and transportation?

Yes, FAA may grant one time extension of up to 6 months (for a total of 24 month), but only when:

(a) You are selling a residence or terminating a lease at the old official station, or purchasing a residence at the new official station;

(b) There are extenuating circumstances, acceptable to the approving official, that have prevented you from completing the sale or purchase, or terminating the lease; and

(c) You request the extension in writing prior to the expiration of the initial 18 month period. No requests subsequent to the expiration of the initial expiration of the initial period will be considered.

The agency interprets these regulations to require employees to complete PCS moves within eighteen months after the effective date of transfer or request an extension of six additional months before the original eighteen-month period expires. It therefore asserts that claimant was required to complete his move by January 14, 2005 or request an additional six-month extension before that date. As claimant did not request an extension until after his settlement for his residence at his new duty station on April 1, 2005, the agency deemed his request untimely and denied reimbursement of expenses.

The agency misreads and misapplies the regulations upon which it relies. These regulations pertain only to travel and transportation,¹ specifying the time period during which the employee must begin travel and transportation and the circumstances which would validly extend this time period. While the second regulation references delays in real estate transactions as a reason for extension, it does not specify a period for completion of a transferred employee's real estate transactions. These regulations do not support the agency's determination that claimant's request for reimbursement of real estate expenses is

¹ Expenses for travel and transportation are distinct from expenses incurred in real estate transactions. *Janice F. Stuart*, GSBCA 16596-RELO, 05-1 BCA ¶ 32,960, *reconsideration denied* (June 29, 2005).

untimely, and the agency has not referred us to any statute or other regulation to support its determination. We have reviewed the FAATP and do not find any regulation that establishes a time period for completion of real estate transactions for transferred employees. *See Alan D. Hendry, GSBCA 15585-RELO, 01-2 BCA ¶ 31,535.*

Decision

The agency erroneously determined that claimant's request for reimbursement of real estate expenses was untimely. The agency should review claimant's voucher and reimburse expenses to which claimant is entitled by statute and regulation.

ALLAN H. GOODMAN
Board Judge