

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

December 20, 2005

GSBCA 16734-RELO

In the Matter of RICHARD WHITLEY

Richard Whitley, Ashland, OR, Claimant.

Thomas Boyd, Director, National Business Center, Bureau of Land Management, Department of the Interior, Denver, CO, appearing for Department of the Interior.

GOODMAN, Board Judge.

Claimant is an employee of the Department of the Interior, Bureau of Land Management. He has requested that this Board review the agency's decision to deny him reimbursement for certain costs he incurred during a permanent change of station (PCS) move.

Factual Background

Claimant was transferred from Santa Fe, New Mexico, to Medford, Oregon, and reported for duty on September 22, 2003. He purchased a home at his new duty station and the settlement was held on December 1, 2003. Claimant states that he had remodeling work performed before he could move into the house on March 26, 2004. His household goods (HHG) were placed in temporary storage until he moved into the house, because the temporary quarters claimant and his family occupied were not large enough for the HHG.

Claimant's travel orders authorized storage of HHG for ninety days. He requested an extension for additional time to store his HHG beyond the ninety days authorized, and the extension was denied. The agency seeks to collect from claimant \$2184.57, the amount claimant apparently paid from his travel advance for storage costs beyond the authorized ninety days.

Discussion

The agency denied reimbursement for temporary storage beyond the ninety days authorized, relying upon two provisions of the

agency's PCS Handbook. The first provision deals with the time limitations for temporary storage:

Extension of Storage Time Allowed. The initial 90 days of temporary storage may be extended for an additional 90 days, or portion of it, if warranted.

PCS Handbook ch. VII, § B.1

The second provision relied upon by the agency deals with an extension of the period for temporary quarters subsistence expenses (TQSE), not storage of HHG:

Extensions for Construction of New Residence. Often, your decision to construct a new house is strictly a personal choice. Encountering delays in construction of a new house is usual and such delays are usually foreseen. Accordingly, temporary quarters are limited to a maximum of 30 days when construction of a new house is involved. No exceptions.

PCS Handbook ch. V, § G.2

The agency concluded that these provisions imply that a decision by the employee to remodel a home is analogous to a decision to construct a new home. The agency reasoned further that since delays encountered in constructing a new home do not allow for an extension of the period for TQSE, by analogy an extension of the initial ninety-day period for temporary storage of HHG is not allowable when remodeling prevents the employee from occupying the home within the initial ninety-day period.

The agency's denial of an extension for temporary storage of HHG is consistent with its internal policy regarding TQSE set forth in its PCS Handbook and does not conflict with the FTR. The provision for extension of the original ninety-day period for temporary storage of HHG states that an extension "may be allowed, if warranted," making the decision a matter of agency discretion. The agency's analogy and reasoning, finding that the extension was not warranted, are logical and reasonable. The agency's

¹ The Federal Travel Regulation (FTR) contains the same time periods for temporary storage of HHG. 41 CFR 302-7.8 (2003).

² This limitation on the total number of days for temporary quarters allowed when constructing a new home does not appear in the FTR. The FTR permits agencies to formulate their own procedures for determining when and for how long TQSE may be authorized. 41 CFR 302-6.301; see, e.g., Richard P. Crane, GSBCA 15782-RELO, 02-2 BCA ¶ 31,996.

determination to deny an extension was not arbitrary, capricious, or otherwise an abuse of discretion.

Decision

The claim is denied.

ALLAN H. GOODMAN
Board Judge